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THE

STATUTES AT LARGE

OF

J

VIRGINIA,

FROM OCTOBER SESSION 1792, TO DECEMBER SESSION 1806, INCLUSIVE,

IN THREE VOLUMES,

14

(NEW SERIES,)

BEING A CONTINUATION OF HENING.

VOL. I.

BY SAMUEL SHEPHERD.

RICHMOND:

PRINTED BY SAMUEL SHEPHERD,

1835.



1560897

AN ACT

TO PROVIDE FOR THE PUBLICATION OF

CERTAIN STATUTES AT LARGE,

IN CONTINUATION OF

HENING'S STATUTES AT LARGE.

(Passed February 21, 1835.)

Whereas, it hath been proposed by Samuel Shepherd, to publish a continuation of Hening's statutes at large, in three volumes octavo, containing all such acts of the general assembly of Virginia, as have passed between the years one thousand seven hundred and ninety-two, and one thousand eight hundred and six, both inclusive, and this general assembly is desirous of insuring such publication, and giving its sanction thereto, so as to make the same of legal authority in the courts of this commonwealth:

1. *Be it therefore enacted*, That the governor be, and he is hereby authorized and required to contract with the said Samuel Shepherd for the printing of three hundred copies of the aforesaid statutes at large, in three volumes octavo, with a full and accurate index; to be printed and bound in the form and style of the supplement to the revised code of eighteen hundred and nineteen, accompanied by a certificate annexed to each volume, of the keeper of the rolls, or some one member of the executive council, that the laws therein contained have been compared with the original laws, and found to be truly and accurately printed; the said Samuel Shepherd to enter into an obligation, that the whole impression shall not exceed five hundred copies, and the commonwealth to have and enjoy the exclusive copy right thereof: *Provided*, That the price of said publication shall be three dollars and fifty cents per volume, payable out of the treasury upon warrant or warrants to be issued by order of the executive: *And provided*, That upon the delivery of the stipulated number of each of the volumes, the executive may cause a warrant to be issued in favor of the said publisher for the price of the volume so delivered.

2. *Be it further enacted*, That the said laws so published shall be of equal authority in the courts of this commonwealth as the originals from which they are taken; and that the whole shall be held by the executive when received, subject to the future order of the general assembly.

3. This act shall be in force from and after its passage.

7 MAR 1835 4535

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# CERTAIN ACTS

## OF THE

# GENERAL ASSEMBLY

## OF THE

# COMMONWEALTH OF VIRGINIA,

PASSED AT A GENERAL ASSEMBLY, BEGUN AND HELD AT THE CAPITOL, IN THE CITY OF RICHMOND, ON MONDAY THE FIRST DAY OF OCTOBER, IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN HUNDRED AND NINETY-TWO, THE OPERATION WHEREOF WAS SUSPENDED BY AN ACT OF THE SAME SESSION, UNTIL THE FIRST DAY OF OCTOBER, ONE THOUSAND SEVEN HUNDRED AND NINETY-THREE.

CHAP. I.—An ACT for reducing into one, the several acts prescribing the oath of fidelity and oaths of public officers.

(Passed December 22, 1793.)

1. *Be it enacted by the general assembly*, That every person by law required to give assurance of fidelity, shall for that purpose, take an oath in this form: “*I, \_\_\_\_\_, do declare myself a* Form of the oath of fidelity.  
*citizen of the commonwealth of Virginia; I relinquish and renounce the character of subject or citizen of any prince or other state whatsoever, and abjure all allegiance which may be claimed by such prince or other state; and I do swear to be faithful and true to the said commonwealth of Virginia, so long as I continue a citizen thereof. So help me God.*”

2. No person shall have power to act in any office, legislative, executive, or judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case. No officer of the government to act until he has taken it.

3. The oath of a governor: “*I, \_\_\_\_\_, elected governor* Oath of a governor or.  
*of Virginia, by the representatives thereof, do solemnly promise and swear that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to law, without favor, affection, or partiality; that I will, to the utmost of my power, protect the citizens of the commonwealth in the secure enjoyment of all their rights, franchises, and privileges, and will constantly endeavor that the laws and ordinances of the commonwealth be duly observed, and that law and justice, in mercy, be executed in all*



*judgments; and, lastly, that I will peaceably and quietly resign the government to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by law and the constitution. So help me God."*

Of a privy councillor.

4. The oath of a privy councillor: "*I, \_\_\_\_\_, elected one of the privy council of Virginia, by the representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to law, without favor, affection or partiality, and that I will keep secret such proceedings and orders of the privy council, as the board shall direct to be concealed, unless the same be called for by either house of the general assembly. So help me God."*

Of one not specially directed to take any other.

5. The oath of one not specially directed to take any other: "*I, \_\_\_\_\_, do solemnly promise and swear, that I will faithfully, impartially and justly, perform the duty of my office of \_\_\_\_\_, according to the best of my skill and judgment. So help me God."*

By whom to be administered.

6. The said oaths to be taken by a member or officer of either house of general assembly, shall be administered by any member of the privy council, and the taking thereof shall be certified to the clerk of such house; and the said oaths to be taken by any other person, if it be not otherwise directed, shall be administered in some court of record or by any judge or justice thereof, and the taking thereof shall be recorded in the said court.

Oath of a counsel or attorney.

7. Every counsel or attorney before he be permitted to practice in any court within this commonwealth, shall take the following oath before such court: "*I do swear that I will honestly demean myself in the practice of a counsel, attorney, or proctor, and will execute my office to the best of my knowledge and ability."*

How persons refusing from religious scruples to take oaths may be qualified.

8. Any person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the church or religious society he professeth himself to be a member of, or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an office, or perform any other act, to the sanction whereof an oath is or shall be required by law, and shall be subject to the same rules, derive the same advantages, or incur the same penalties or forfeitures as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words "upon their oath," or "sworn," may be left out, and instead of them, "in solemn form," or "charged," which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

Repealing clause.

9. All and every act and acts, clauses and parts of acts containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

10. This act shall commence and be in force from and after the passing thereof.





## CHAP. 2.—An ACT for ascertaining the salaries to the officers of civil government.

(Passed November 22, 1792.)

1. *Be it enacted*, That the several officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The governor or chief magistrate, the sum of two thousand six hundred and sixty-seven dollars. The members of the privy council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The judges of the court of appeals, the judge of the high court of chancery, and the judges of the general court, each, the sum of one thousand dollars. The attorney general, the sum of six hundred and sixty-seven dollars, per annum, and to each of his deputies in the district courts, seventy-five dollars per annum. The auditor of public accounts, the sum of one thousand dollars per annum. The speaker of the senate, the sum of three dollars and thirty-four cents per day, during each session of assembly, including his daily pay. The speaker of the house of delegates, the sum of six dollars and sixty-seven cents per day, in like manner. The clerk of the general court, for his ex-officio services, the sum of one hundred dollars per annum. The register of the land office and his clerks, the sum of one thousand three hundred and thirty-three dollars per annum. The treasurer, the sum of sixteen hundred and sixty-seven dollars per annum. The first clerk of the council, treasury, and auditor, the sum of five hundred dollars per annum each, and each of the other clerks of the council, treasury, and auditor, the sum of three hundred and thirty-four dollars per annum. And the keeper of the public jail, the sum of eighty-four dollars per annum. All those several sums shall be paid in specie, and the auditor is hereby authorized to audit the same, and issue his warrants upon the treasury accordingly.

Salaries payable quarterly to the officers of civil government.

2. All and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this act.

Repealing clause.

Proviso.

3. This act shall commence in force from and after the first day January next.

Commencement.

## CHAP. 3.—An ACT to punish bribery and extortion.

(Passed October 19, 1792.)

1. *Be it enacted by the general assembly*, That no treasurer, keeper of any public seal, councillor of state, counsel for the commonwealth, judge, clerk of the peace, sheriff, coroner, escheator, nor any other officer of the commonwealth, shall in time to come, take in any form, any manner of brokerage or reward for doing his office, other than is, or shall be allowed by law. And he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a jury, and shall be discharged from his office forever. And he who will sue in the said matter, shall have suit as well for the commonwealth as for himself, and the third part of the amercement.

Penalties on any officer of government taking any thing for doing his office except what is allowed by law.

2. Any person hereafter to be elected to serve in the general assembly, who shall directly or indirectly give or agree to give to any elector or pretended elector, money, meat, drink, or other reward,

Members of general assembly bribing electors, to be expelled, and no-



ligible for three years.

in order to be elected, or for having been elected for any county, city or borough, or for any district, shall be expelled, and be disabled from being elected a member to either house of the general assembly, during the term of three years.

Penalty for bribing electors of representatives in congress.

3. Any candidate or other person in his behalf, who shall directly or indirectly give or agree to give any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a representative of this commonwealth in congress, shall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

Repealing clause.

4. All and every act and acts, clauses and part of acts, containing any thing within the purview of this act, shall be and the same are hereby repealed: *Provided*, That any act of bribery or extortion committed or done before the commencement of this act, may be prosecuted in the same manner as if this act had never been made.

Proviso.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 4.—An ACT against buying and selling of offices.

(Passed October 19, 1792.)

Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office.

1. *Be it declared and enacted by the general assembly*, That if any person or persons shall bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promise, agreement, covenant, bond or any assurance to receive or have any money, fee or reward, or other profit directly or indirectly for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the executive government, or the administration or execution of justice, or the receipt or payment of the public revenue, or which shall concern or touch any clerkship in a court of record, all and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such office, and shall be adjudged a disabled person in law, to all intents and purposes, to have, occupy or enjoy the office in virtue of which he holds, or shall hold the right of appointing or voting for the appointment to such office, and shall moreover be amerced and imprisoned at the discretion of a jury; and if a member of either house of assembly, he shall moreover be expelled from the same, and forever after disabled from being elected a member of the general assembly.

For giving or agreeing to give any thing for any such office.

2. Every person who shall directly or indirectly give or pay any money, fee or reward, or shall make any promise, agreement, bond or assurance to give any money, fee or reward whatsoever for any vote or appointment to any office, which concerns the administration of the executive government, or the administration or execution of justice, or the receipt or payment of the public revenue, or for the clerkship in any court of record, or for the deputation or



deputations to any of the said offices, shall be utterly incapable of serving in any such office.

3. Every such bargain, sale, promise, bond, covenant, agreement and assurance as before specified, shall be utterly void and of no effect. Contracts for these purposes void.

4. *Provided always*, That nothing in this act contained shall be so construed as to prohibit the appointment, qualification and acting of any deputy clerk or deputy sheriff who shall be employed to assist their principals in the execution of their respective offices. Not to extend to appointments of deputy clerks or sheriffs.

5. *Provided always*, That if any person or persons shall be convicted of having offended against this act, yet all judgments given and all other acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the person so convicted, after the offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration and occupation of the said office or deputation, shall be good and sufficient in law to all intents, constructions and purposes, in such like manner and form as the same should or ought to have remained and been if this act had never been made. Official acts of persons convicted under this act, performed before removal from office, valid.

6. All and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided) shall be and are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal the said statutes or acts for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act. Repealing clause. Proviso.

7. This act shall commence and be in force from and after the passing thereof. Commencement.

#### CHAP. 5.—An ACT for arranging the counties in districts for electing senators.

(Passed December 12, 1792.)

1. For the regular election of senators to the general assembly, *Be it enacted*, That the counties of Accomack and Northampton shall be one district; the counties of Norfolk, Princess Anne and Nansemond, one other district; the counties of Surry, Isle of Wight and Prince George, one other district; the counties of Sussex, Dinwiddie and Southampton, one other district; the counties of Brunswick, Lunenburg, Mecklenburg and Greenville, one other district; the counties of Charlotte, Halifax and Prince Edward, one other district; the counties of Amelia, Chesterfield, Cumberland, Nottoway and Powhatan, one other district; the counties of Buckingham, Amherst, Albemarle and Fluvanna, one other district; the counties of Franklin, Pittsylvania, Campbell, Bedford, Henry and Patrick, one other district; the counties of Wythe, Botetourt, Washington, Montgomery, Russell, Greenbrier and Kanawha, one other district; the counties of Elizabeth City, Warwick and York, one other district; the counties of Charles City, James City and New Kent, one other district; the counties of Goochland, Henrico and Louisa, one other district; the counties of Hanover and Caroline, one other district; the counties of Augusta, Rockingham, Rockbridge, Shenandoah, Pendleton and Bath, one other district; the counties of Essex, King William and King & Queen, one other

Arrangement of the counties into senatorial districts.







district; the counties of Gloucester, Middlesex and Mathews, one other district; the counties of Lancaster, Richmond and Northumberland, one other district; the counties of King George, Westmoreland and Stafford, one other district; the counties of Spottsylvania, Orange and Culpeper, one other district; the counties of Fairfax and Prince William, one other district; the counties of Loudoun and Fauquier, one other district; the counties of Frederick, Berkeley, Hampshire and Hardy, one other district; the counties of Monongalia, Harrison, Ohio and Randolph, one other district.

Repealing clause.

2. All ordinances of convention, or acts of assembly, within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

3. This act shall commence in force from and after the passing thereof.

CHAP. 6.—An ACT for reducing into one, the several acts and parts of acts respecting the powers and duties of the executive.

(Passed November 16, 1792.)

Powers vested in the executive for suppressing combinations for dismembering the state.

1. *Be it enacted*, That if any combination for dismembering this state, or establishing in any part of it a separate government, should become so powerful as to obstruct the due execution of the laws of this commonwealth, in the ordinary course of proceeding within any county or counties thereof, it shall be lawful for the governor, with advice of council, to call out the militia of the state to suppress such combination, and to employ them in the same manner as he may do by law, in cases of invasion or insurrection.

For apprehending suspicious subjects of a foreign state, in case of war with such state.

2. It shall and may be lawful for the governor, with the advice of the council of state, to apprehend and secure, or cause to be apprehended and secured, or compelled to depart this commonwealth, all suspicious persons, being the subjects of any foreign power or state, who shall have made a declaration of war, or actually commenced hostilities against the said states, or from whom the president of the United States shall apprehend hostile designs against the said states; provided information thereof shall have been previously received by the executive from him. And in all such cases the governor, with the advice of the council of state, shall, and he is hereby empowered, to send for the person and papers of any foreigner within this state, in order to obtain such information as he may judge necessary.

Their persons and papers may be sent for and secured.

Sheriffs and jailors to obey the warrants of the governor respecting them.

3. All sheriffs and jailors shall receive such suspicious persons, whom by warrant from the governor they shall be commanded to receive, and them in their prisons or custody to detain, or transport out of the commonwealth, as by such warrant they may be commanded. And all others, the good citizens of this commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person, when commanded by warrant or proclamation of the governor, or required by the sheriff or jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this act in evidence. Saving always to the merchants of any foreign state, betwixt whom and the United States of America, war shall have arisen, and to their families, agents, and servants, found in this commonwealth at the beginning of the war, the privileges allowed by law.

Saving to foreign merchants their legal privileges.



4. If the governor and president of the privy council shall die, or otherwise become unable to perform his duty, in the recess of the general assembly, the privy councillor, whose name stands next in the list of their appointments, shall officiate as lieutenant governor, until the vacancy be supplied or the disability cease.

Who shall officiate as lieutenant governor in case of the inability of the governor and president of the council.

5. And in the absence of the governor, such intended absence having been previously notified to them by him, and entered on their journals, or in the like absence of the president, and upon the like notification, if any business to be transacted at the council board necessarily require dispatch before he can attend it, the council may proceed without him; and in either case the act shall be as valid as if he had been present. The governor and council shall have power to appoint from time to time as they shall be wanting, a drawing clerk, a copying clerk, and a clerk of foreign correspondence, who shall each of them take an oath, to be administered by any member of the board, to keep secret all such matters as they shall direct them to keep secret; which clerks shall be removed at their will.

When the council may act without the governor or president.

Clerks of council, how to be appointed, qualified and removed.

6. It shall and may be lawful for the governor, with the advice of council, to cause as many men (not exceeding twenty-five) with proper officers to be enlisted as guards for public service, as he the said governor, with advice of council, may deem necessary, and may retain the same in service so long as the public exigencies may require.

Guards for public service, how to be procured.

7. If it shall happen that there is not a sufficient number of justices for holding a court in any county, either by deaths, refusal to act, or removal out of the county, the governor for the time being, with advice of council, shall have full power to issue a commission or commissions of the peace for the appointment of any number of magistrates in such county so circumstanced, as shall be judged necessary for carrying on the business of the same.

When the executive may appoint justices of the peace without a recommendation.

8. It shall be the duty of the executive to send copies of the laws of this commonwealth by express, or otherwise, as they shall think best, to the clerk of every county and corporation court within the same, for the use of each magistrate, clerk, state's attorney, and sheriff, in the county or corporation, as soon as the said laws are printed; the expense whereof shall be defrayed out of the contingent fund.

The executive to send the laws to the clerks of the county courts.

9. It shall not hereafter be lawful for the executive to remit any fine or amercement assessed by a jury.

Fines assessed by a jury not to be remitted by the executive.

10. All and every act and acts, clause and clauses of acts, within the purview of this act, shall be, and are hereby repealed.

Repealing clause.

11. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 7.—An ACT reducing into one the several acts concerning the adjournment and places of session of certain courts in certain cases.

(Passed October 17, 1792.)

1. *Be it enacted by the general assembly,* That so often as it shall appear necessary, it shall be lawful for the governor, with the advice of the council of state, by a proclamation, bearing date one month at least before the first day of meeting, and dispersed throughout the several counties, to cause the court of appeals, the high court of chancery, and the general court, to meet at any convenient place within this commonwealth, there to hold their respective

Governor and council may by proclamation change the place of holding the courts of appeals and chancery and the general court, and the time of their meeting.



tive sessions immediately succeeding each proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the governor, with the advice of the council of state, by a proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof and such new day, and that the new day does not fall within the month next preceding the stated term.

Judges may adjourn if they think they cannot sit with safety.

2. If after a session begun, a majority of the judges of the aforesaid courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by law, or the proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding term; and thereupon all business shall stand continued over.

Copies of the proclamations to be sent to the judges.

3. Copies of any proclamation of adjournment shall be sent under signature of the governor, and seal of the commonwealth, to each of the judges aforesaid, whose court may be so adjourned.

No discontinuance if courts not held in usual terms.

4. There shall be no discontinuance in any proceeding whatsoever, if the courts aforesaid, or either of them, should not be holden in their usual terms.

Executive may direct courts to be held in other buildings, when those erected for the purpose are destroyed. *Provido.*

5. It shall in like manner be lawful for the executive, whensoever any building or buildings duly appointed for the holding of any court shall be destroyed, by proclamation to direct such court to be holden in any other building or buildings, until the building or buildings so destroyed shall be rebuilt: *Provided always*, That the court of appeals, high court of chancery, and general court, shall continue to be holden in such case, in the city of Richmond; the district courts in the counties in which they are appointed to be holden by law; and the county and corporation courts within their respective counties and jurisdictions.

Repealing clause.

6. All and every act and parts of acts within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

7. This act shall commence and be in force from and after the passing thereof.

CHAP. 8.—An ACT to reduce into one the several acts declaring who shall be conservators of the peace within this commonwealth.

(Passed October 17, 1792.)

Who shall be conservators of the peace.

1. *Be it enacted by the general assembly*, That the judges of the court of appeals, high court of chancery, and general court, shall be conservators of the peace throughout the commonwealth; and the justices of the peace in each county and corporation shall be conservators of the peace within their several counties and corporations respectively; and the said judges and justices within the limits aforesaid respectively, shall have power to demand of such persons as are not of good fame, sufficient surety and mainprize of their good behaviour.

May demand of persons of evil fame security of their good behaviour.

Repealing clause.

2. Every act, clause, and part of any act, within the purview of this act, shall be, and the same is hereby repealed.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.





CHAP. 9.—AN ACT to reduce into one all acts and parts of acts respecting county and corporation clerks.

(Passed November 2, 1792.)

1. *Be it enacted by the general assembly, That every person* Clerks of county and other inferior courts, how qualified.  
 hereafter admitted into office by any county or other inferior court, as clerk or deputy clerk of such court, shall at the time of his admission or appointment to such office, take the following oath: “*I A. B. do swear that I will well and truly exercise the office of according to the best of my skill and judgment, making due entries and record of all orders, judgments, decrees, opinions or proceedings of the court, and carefully filing and preserving in my office, all books and papers whatsoever, which shall be delivered me in charge, or otherwise come to my hands or possession by virtue of my said office; and that I will not wittingly or willingly commit any malfeasance of office, but in all things and at all times keep my said office free and accessible to every person having a right or claim to business therein, and faithfully execute the duties thereof, without favor, affection or partiality. So help me God.*” And if Penalty for acting without qualifying.  
 any person shall presume to execute the office of clerk or deputy clerk of any county, or other inferior court, without taking such oath, he shall forfeit and pay fifteen hundred dollars, and suffer one year’s imprisonment without bail or mainprize.

2. If any clerk shall wittingly make any false entry, or raise, alter or change any record in his keeping belonging to his office, How punished for making false entries, or altering records.  
 every such clerk so offending shall be amerced and imprisoned at the discretion of a jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed, by reason of any such false entry, rasure, alteration or change, the party grieved may sue by writ of error, or otherwise according to law, if he see it expedient for him. Party injured how to be relieved.

3. Every clerk of a county or other inferior court, shall, at the time of his appointment and qualification as aforesaid, enter into bond with security, to be approved of by the court, in the penalty of three thousand dollars, payable to the governor and his successors, for the time being, with condition for the due and faithful execution of his office, and that he will not remove or carry, or suffer to be carried or removed out of the county or corporation, the records and papers of the court whereof he is clerk, or any part thereof, except in cases allowed by law; which bond shall by such clerk be transmitted within three months to the clerk of the court of the district in which the said county or corporation may be, to be by him registered and preserved among the papers of his office, and may be prosecuted upon against any such clerk and his securities, in the name of the governor or his successors, for the use of any person or persons who shall or may be injured, at his, her or their costs and charges, who shall and may recover all damages which he, she or they may have sustained by reason of the breach of the condition of the said bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any plaintiff or plaintiffs who shall sue on such bond, but may be put in suit and prosecuted from time to time, for the benefit and at the proper costs and charges of any party injured, until the whole sum of three thousand dollars, the penalty expressed in such bond, shall be recovered; and such clerk failing to transmit such bond to the clerk of the said district court for the time being, within the term Bond and security to be given by clerks when appointed. Condition. To be transmitted to the clerks of the district courts. Penalty on clerks for failure.





Records of county courts not to be moved out of the county, except in invasions or insurrections.

Clerks appointed since June 1776, to reside in their counties.

Where the clerks of county courts shall keep their offices.

Penalties how to be recovered.

When the clerks are to account for the public monies received by them.

Punishment in case of fraud therein.

How a clerk is to be appointed when the court is equally divided.

Clerks' offices to be annually inspected.

Clerks to keep lists of executions in books, and con-

aforesaid, shall forfeit and pay three hundred dollars, or presuming to execute his office without entering into such bond, shall forfeit and pay six hundred dollars, and suffer three months imprisonment.

4. It shall not be lawful for the court of any county or corporation, or the clerk of any such court, to remove, or cause to be removed, the records and papers of the same, or any part thereof, without the county or corporation, except in cases of actual invasion or insurrection, where in the opinion of the court the same will be endangered, or where for want of such opinion, occasioned by the suddenness of the alarm or danger, the clerk shall at his own discretion remove the same, returning them as soon as the alarm or danger ceases, or except also in other cases heretofore provided for by law; any member of a court, or clerk of the same, offending herein, shall forfeit and pay six hundred dollars.

5. Every clerk appointed since the fourth day of June, one thousand seven hundred and seventy-six, shall reside within the county or corporation in which he shall hold his office; and every clerk of a county or corporation court, shall keep his office at the courthouse of the county in which he resides, or at such other convenient place, as the court of the county or corporation may direct, under penalty of being incapacitated therefrom, by information in the general court: *Provided always*, That the clerks of county and corporation courts may keep their several offices at any place within their respective counties or corporations, until otherwise directed by their courts as aforesaid, and until an office built with brick and covered with tile, lead or slate, with so much land as the court shall judge necessary thereunto appointed, shall be provided for the use of the said clerks and their successors at the expense of their counties or corporations respectively, to be assessed in their levies.

6. All the penalties by this act imposed, shall be prosecuted for, and recovered by bill, plaint or information, in any court of record; one moiety to the use of the informer, and the other moiety to the use of the commonwealth.

7. The clerks of the several courts aforesaid, shall respectively, on or before the first day of April, and first day of October, in every year, account for on oath, and pay into the public treasury, all the monies which by an act, intituled, "*An act to reduce into one the several acts concerning the public revenue*," they are authorized to receive, after a deduction of five per centum therefrom, as a commission for the service thereby imposed; and in case of fraud herein by any clerk, he shall, on conviction thereof, be deprived of his office.

8. Whensoever the court of any county or corporation within this commonwealth, shall be so divided in the appointment of a clerk, that neither of the candidates shall be elected, the high sheriff of such county, or the presiding magistrate of such corporation court, shall decide in favor of one of those candidates, between whom the court shall be divided.

9. The justices of the several county and corporation courts, shall annually appoint two or more fit persons of their number, to inspect the clerk's office of their county or corporation, and to report to the next court, the condition in which they find the papers and records.

10. The clerk of every county or corporation court, shall enter in a docket or book to be kept by him for that purpose, a list of all



executions by him issued, the name of the person to whom delivered, and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his court. stantly carry them to their courts.

11. All and every act and acts, or parts of acts, within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act. Repealing clause. Proviso.

12. This act shall commence and be in force from and after the passing thereof. Commencement.

#### CHAP. 10.—An ACT concerning counsel and attorneys at law.

(Passed November 19, 1792.)

1. For prescribing the mode of licensing counsel and attorneys at law, and regulating their practice: *Be it enacted by the general assembly*, That before any person shall be licensed to practice as counsel or attorney at law, in any of the courts of this commonwealth, he shall produce to those authorized hereby to grant licenses, a certificate from the court of that county, where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty-one years of age; and three of the judges of the superior courts upon such certificate's being produced to them, may, and they are hereby authorized and empowered, to grant to the person producing the same, a license under their hands and seals, to practice the law in the superior and inferior courts of this commonwealth, if after examination they shall be of opinion that he is duly qualified. Method of obtaining a license.

2. Every counsel and attorney before he shall be permitted to practice in any of the courts of this commonwealth, shall first produce his license in each court where he intends to practice, and in the presence of such court shall give assurance of fidelity to the commonwealth, and shall moreover take the following oath of office, to wit: "*I, A. B. do solemnly swear that I will honestly demean myself in the practice of the law, as counsel or attorney, and will in all respects execute my office, according to the best of my knowledge and abilities.*" If any person shall presume to practice as counsel or attorney in any of the said courts without a license first obtained as aforesaid, or without qualifying himself in such court in the manner before directed, he shall for every such offence forfeit and pay the sum of one hundred and fifty dollars for every cause he shall prosecute or defend in any of the said courts; one moiety to the use of the informer, the other moiety to the use of the commonwealth, to be recovered by action of debt in any court of record. Counsel and attorneys, how qualified. Penalty for practicing without qualifying.

3. Every person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such license, or if licensed, the judges of any court, in which such person may practice, on proof thereof being made to them, may supercede his license. Who incapable of obtaining a license or practicing.

4. If the judges of the general court, either in the general court or district courts, from their own observation detect any mal-practice in either of the said courts, in any counsel or attorney of those courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said courts, or in the court of any Licenses of counsel and attorneys may be suspended or vacated for mal-practices.





county or corporation, the party accused shall be summoned to shew cause why an information should not be filed against him. And if such information should be ordered, and the counsel or attorney thus offending, should be found guilty of the matter therein charged, the said judges either in the general court or district courts, as the case may happen, may either suspend his license during a certain time, or vacate it altogether, as they shall judge most proper. The judges of the court of appeals, and of the high court of chancery, shall have the like power, over counsel and attorneys practising at the bars of their respective courts, and in case an information should be directed by the judges of either of the said courts, they may cause a jury to be impannelled to try such information, in like manner as informations are tried in the general court, or in the district courts: *Provided always*, That nothing herein contained shall be construed to hinder the justices of any county court or other inferior courts, from causing any attorney practising in such courts to find security for his good behaviour, or fining such counsel or attorneys for misdemeanor, or contempts offered to them, in the same manner as if this act had never been made.

Power of county courts over attorneys practising therein.

Appellant's attorney in the inferior court, not to prosecute the appeal, under penalty.

5. No counsel or attorney who shall prosecute any suit in an inferior court, in which an appeal may be prayed, shall be permitted to appear, or prosecute such appeal in any superior court, to which the same may be carried or removed; and any counsel or attorney who shall appear to or prosecute such appeal in any superior court, shall forfeit the sum of sixty dollars, to be recovered with costs by action of debt in any court of record within this commonwealth. The whole penalty shall be appropriated to him who will sue for and recover the same.

Attorneys to pay costs of suits dismissed for their non attendance, and liable to party for damages.

6. If any suit shall be dismissed for the non-attendance of an attorney practising either in the superior or inferior courts not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismission, or any other neglect of his duty, to be recovered in any court of record within this commonwealth.

May be proceeded against in a summary way for money received for their clients.

7. And every attorney receiving money for his client, and refusing to pay the same when demanded, shall be proceeded against in a summary way on notice before any court of record, in the same manner as sheriffs are liable to be proceeded against for money received on executions.

Penalty on attorneys engaging to appear for defendants and failing.

8. In all cases where the sheriff is authorized by law to take the engagement of an attorney endorsed upon the writ, that he such attorney will appear for the defendant or defendants, every attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the defendant or defendants eight dollars, for which judgment shall be immediately entered, and execution may issue thereon.

Only two attorneys of a side.

9. The judges of the general court, of the district courts, and the justices of the county or other inferior courts, shall not suffer in suits hereafter to be commenced more than two attorneys to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation.

Exception.

Power of attorney to confess judgment before suit brought, void.

10. If any attorney or other person practising as an attorney, shall presume to appear under any power of attorney made before action brought for confessing or suffering judgment to pass by default or



otherwise, for any defendant in any court of record within this commonwealth, such attorney shall for every such offence forfeit and pay fifteen hundred dollars to such defendant, for his own use, to be recovered with costs by action of debt or information in any court of record, and moreover shall be liable to an action for damages at the suit of the party grieved.

11. No justice of the peace, sheriff, under-sheriff, or clerk of any county court, shall appear or plead as attorney for any person or persons whatsoever, in the court of the county whereof he is a member, officer or clerk, except only as general attorney for any person or persons not residing or being within this commonwealth, under penalty of being fined by such court in the sum of thirty dollars for every such offence, to the use of the same county towards lessening the levy thereof.

No justice or officer to appear as attorney in the court whereof he is a member or officer.  
Exception.

12. The lawyers in this commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive before the suit or suits they are or shall be employed in shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the general court may demand and receive for an opinion or advice, where no suit is or shall be brought and prosecuted or defended by the attorney giving such advice, but not otherwise, three dollars and fifty-eight cents; and in any suit other than where the title or bounds of land shall or may come in question, eight dollars and thirty-three cents; in those where the title or bounds of lands, shall or may come in question, sixteen dollars and sixty-six cents; in any suit in chancery, the fee last mentioned; in any suit in a district court, where the title or bounds of land shall or may come in question, five dollars; and in all other cases two dollars and fifty cents, except in causes transferred from the general court, in which the fee shall be the same as in the general court. And lawyers practising in the county courts, or other inferior courts, for services to be by them done in such courts, may demand for an opinion or advice, where no suit is or shall be brought or prosecuted, or defended by the attorney giving such advice, but not otherwise, one dollar and sixty-seven cents; and in any suit at common law, other than the actions hereafter mentioned or by petition, two dollars and fifty cents; in all chancery suits, or real, mixed, or personal actions, where the title or bounds of lands, shall or may come in question, five dollars; on a petition for a small debt, one dollar and twenty-five cents; and any lawyer for attending a survey in the country, for every day he shall attend, may demand three dollars and fifty-eight cents, which last mentioned fee may be taxed in the bill of costs. And every lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above services, before he has performed the said services, or finished the said suits, shall forfeit and pay one hundred and fifty dollars for every offence; one half to the governor for the time being for the use of the commonwealth, and the other half to the informer, to be recovered by action of debt or information in any court of record within this commonwealth.

Lawyers' fees.

In the general court.

In the high court of chancery.  
In the district courts.

In the county courts.

13. No lawyer in any suit to be brought for his fees or services, shall recover more than the fees above-mentioned, notwithstanding

Not to recover more than legal fees.





any agreement, contract, or obligation, made or entered into by the party against whom such suit shall be brought.

Lawyers' fees to be taxed in the bills of costs.

14. The clerks of the high court of chancery and general court respectively, shall tax in the bill of costs on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land shall or may come in question, a fee of sixteen dollars and sixty-six cents, and in all other cases in the said last mentioned court, the clerk shall tax a fee of eight dollars and thirty-three cents, where the party obtaining such decree or judgment employed a lawyer, except against executors or administrators, or where the plaintiff may not recover more costs than damages; and the clerks of the respective district courts, and county courts, or other inferior courts, shall tax in the bill of costs in all judgments in any action where the title or bounds of land shall or may come in question; and on all decrees in chancery, either when the plaintiff shall recover or be non-suited, or where his suit shall be dismissed, five dollars. And in all other actions or suits, except such as are brought by petition in the county or other inferior courts, two dollars and fifty cents, for an attorney's fee, if the party employed one, except against executors or administrators, or where the plaintiff may not recover more costs than damages, and except also such suits as have been transferred from the general court to the district courts, in which last mentioned suits the same fees shall be taxed as if they had been determined in the general court. And in all suits by petition, the clerks of the said county courts, and other inferior courts, shall tax in the bill of costs, where an attorney shall be employed, one dollar and twenty-five cents as an attorney's fee, against the party who shall be cast, except against executors or administrators.

Repealing clause.

15. All and every act and acts, clause or clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement.

16. This act shall commence and be in force from and after the passing thereof.

CHAP. 11.—An ACT reducing into one act the several acts directing the manner of proceeding in cases of impeachment.

(Passed October 18, 1792.)

Process in impeachments.

1. *Be it enacted by the general assembly*, That the process against any person impeached by resolution of the house of delegates, shall be summons, attachment and distress, bearing teste, the first of them, the day of emanation, and the others, the return day of the process preceding, and shall be issued and signed by the clerk of that court where such impeachment is, by the constitution, directed to be tried, as soon as such impeachment shall be notified to him by the attorney general, or any other person or persons appointed by the house of delegates to prosecute the same.

Copy of the articles to be delivered to the party accused. The court may hasten the issue and trial.

2. A copy of the articles of impeachment shall be delivered to the party accused, whensoever he shall require it, and the court shall from time to time make such rules for compelling him to answer, and bring the matter to issue speedily, as to them shall seem reasonable.



3. No person shall be found guilty on an impeachment, but by a jury, for which purpose, as soon as any matter of fact shall be put in issue, the clerk of such court shall issue a *venire facias* to the sheriffs of the senatorial district, wherein the person accused resides, commanding them to summon in their counties to the first day of the next succeeding court, in proportions as nearly equal as possible, twenty-four jurors qualified according to law for the trial of other criminal cases, which process may be repeated by order of the court as often as it shall be necessary. The prosecutor for the commonwealth, and the person accused, shall in open court, alternately strike one, until the number shall be reduced to twelve; which remaining twelve shall be a jury, and shall try the impeachment, render a verdict, and proceed in the same manner as is prescribed in the case of an indictment in the district courts. The jurors shall have the same allowance, and be subject to like penalties as in the case of *veniremen*, attending district courts. If twenty-four jurors should not appear, bystanders may be summoned to make up the deficiency.

None to be found guilty but by a jury.

Jury how to be summoned.

4. The party accused may have one or more counsel without petitioning the said court.

Party accused may have counsel.

5. A person impeached may for good cause, challenge a juror either before or after the names shall be struck.

May challenge jurors.

6. No impeachment shall be tried during the session of the general assembly, unless the party accused shall request it.

No impeachment shall be tried during the session of the assembly.

7. A person found guilty on impeachment, shall be either forever disabled to hold any office under government, or removed from such office, *pro tempore*, or subjected to such pains, or penalties as any act of the general assembly may direct.

Persons found guilty on impeachment, how to be punished.

8. All and every act within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

9. This act shall commence and be in force from after the passing thereof.

Commencement.

#### CHAP. 12.—An ACT concerning grand juries, petit juries, and veniremen.

(Passed November 29, 1792.)

1. For the more regular enquiry into breaches of penal laws, and trials of matters of fact in the several courts of justice within this commonwealth, by juries: *Be it enacted by the general assembly*, That the sheriff of each county, where a district court is appointed to be holden, shall before every meeting of such court, summon twenty-four of the most discreet freeholders of the district, not being ordinary keepers, constables, surveyors of highways, or occupiers of mills, to appear at the succeeding district court, on the first day thereof, which the said sheriff is hereby empowered to do, as well without his county as within the same: and the said twenty-four freeholders, or any sixteen of them, shall be a grand jury, who shall be sworn to enquire of and present all treasons, murders, felonies, or other misdemeanors whatsoever, which shall have been committed or done within the district, for which they are impanelled: and if a sufficient number of the said freeholders should not attend on the first day of the court, the sheriff shall summon from the bystanding freeholders, qualified according to law, a sufficient number to form together with such of the first mentioned freeholders as do attend, a grand jury.

Grand juries to be summoned to every district court.

Their duty.

Bystanders may be summoned if all the jurors do not attend.

2. The sheriff of each county, and the serjeants of the cities of Williamsburg, Richmond, and borough of Norfolk, and other cor-

Grand jurors to be summoned to every quarterly





session of the  
county courts.

Their duty.

Oath to be admi-  
nistered to the  
foreman of every  
grand jury.

To the other ju-  
rors.

Inhabitants of a  
corporate town not  
to act as grand ju-  
rymen of the  
county.

What offences  
may be presented  
by grand juries of  
county courts.

Method of prose-  
cuting present-  
ments in the coun-  
ty and district  
courts, where the  
penalties do not  
exceed certain  
sums.

porations within this commonwealth, shall before every quarter session of the county or corporation courts, respectively summon twenty-four freeholders of his county or corporation, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of a mill, out of which number shall be impannelled a grand jury of sixteen at the least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders; but shall present such offences and breaches only, as shall have been committed within the space of twelve months before the time of such presentment, unless the same be otherwise directed by law; and such grand juries having presented all such matters as come to their knowledge shall be discharged, always observing that when they make presentment, to write the name and surname of the prosecutor or informer, and the town or county in which he shall reside, with his title or profession under such presentment, for the more effectual prosecution thereof.

3. An oath in the following words, shall be administered to the foreman of a grand jury: "*You as foreman of this inquest, shall diligently enquire into and true presentment make of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor or affection, or for any reward, hope or promise thereof, but in all your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.*" The following oath shall be administered to the other jurors—" *The same oath that A. B. your foreman, hath now taken before you on his part, you and each of you shall well and truly observe and keep on your respective parts. So help you God.*"

4. *Provided*, That the inhabitants of any corporate town, shall not be grand-jurymen for the county in which such corporate town shall be.

5. Every such grand jury for a county or corporation, shall and may present all offences made penal by the laws of this commonwealth, although the recovery of the fines for such offences shall be otherwise directed by the laws inflicting the same; and although the forfeiture or penalty thereby inflicted shall not amount to five dollars or two hundred pounds of tobacco.

6. In a presentment to the county or corporation court, if the penalty of the offence exceed not five dollars or three hundred pounds of tobacco, or to the district court, if the penalty exceed not twenty dollars or one thousand pounds of tobacco, no information thereupon shall be filed, but a summons shall be issued against the defendant to answer the presentment, and such summons having been served upon him, or a copy thereof having been left at the place of his usual abode, where the prosecution shall be in the county or corporation court, at least ten days before the return day, if he do not appear, judgment shall be entered against him for the penalty, and if he do appear, the court shall in a summary way, without a jury, hear and determine the matter of the presentment, in the form in which it shall have been made, and give judgment thereupon according to law, and the very right of the cause, disregarding any exception that may or might be taken to the form of the presentment.



7. Every freeholder summoned to appear on a grand jury as aforesaid, and failing to attend, not having a reasonable excuse, shall be fined by the courts respectively, not exceeding eight dollars, unless good cause be shewn to the contrary, at or before the next court, to the use of the commonwealth.

Penalty on a person summoned as a grand juror and failing to attend.

8. Grand jurors shall be privileged from arrests in all cases, except treason, felony and breaches of the peace during their attendance at court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all such arrests shall be void.

Grand jurors privileged from arrests.

9. No grand jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the district courts where the penalty inflicted by law is less than five dollars or two hundred pounds of tobacco.

Rules in making presentments.

10. In case of the sickness, death, or non-attendance of any grand juror or grand jurors, after he or they shall be sworn, it shall be lawful for the court to cause others to be sworn in his or their stead.

Others may be sworn in the room of grand jurors failing to attend after they are sworn.

11. For the trial of all causes in the district courts, and in the county and other inferior courts where a jury may be necessary, the sheriff or other officer attending such courts respectively, shall every day the court sits, summon a sufficient number of bystanders, or others qualified as hereinafter is directed, to attend the court that day, that out of them may be impanelled sufficient juries for the trial of causes depending in such courts; and if any person so summoned shall fail to attend the court accordingly, he shall be fined eight dollars to the use of the commonwealth.

Officer to summon jurors at every court.

Fine if they fail to attend.

12. No person shall be capable to be of a petit jury, for the trial of treason, felony, breach of the peace, misprision of treason, breach of a penal law, or any other pleas of the commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any court of record in this commonwealth, or to be a juror in any cause whatsoever, depending in the district or any other of the superior courts of the commonwealth, unless such person be a freeholder, and possessed of a visible estate, real or personal, of the value of three hundred dollars at the least. No person shall be capable to be of a jury for the trial of any cause whatsoever, in any county court or other inferior court, unless he be possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at the least. No person under the age of twenty-one years, shall serve as a juror. No sheriff or other officer shall at any time summon or return any juror not qualified as this act directs: *Provided always*, That no exceptions against any juror, on account of his estate or age, or any other legal disability, shall be allowed after he is sworn.

Qualifications of jurors.

In the superior courts.

In county courts.

Infants not to serve as jurors.

Jurors shall not be challenged after they are sworn.

13. Juries *de medietate linguæ* may be directed by the courts respectively.

Juries *de medietate linguæ*.

14. Jurors knowing any thing relative to the point in issue shall disclose the same in open court.

Jurors how to give evidence.

15. Any juror guilty of a contempt to the court may be fined by such court in any sum not exceeding thirty dollars.

How punished for contempt.

16. No sheriff shall converse with a juror, but by order of the court, after the jury have retired from the bar.

When the sheriff may converse with them.

17. If any sheriff shall fail to summon a grand jury, and return a pannel of their names as herein directed, he shall forfeit and pay twenty dollars, for the use of the commonwealth.

Penalty on sheriff for failing to summon a grand jury.





Allowance to veniremen.

18. Every venireman summoned and attending the district court for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses attending the said courts, to be paid by the public. If any person so summoned as a venireman, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next district court, every such person may be fined by the court, not exceeding six dollars, to the use of the commonwealth.

Penalty on them for failing to attend.

Penalty on a juror taking any thing for giving his verdict.

19. If any juror upon any inquest whatsoever, shall take any thing by himself, or another, to give his verdict, and shall be thereof convicted, such juror shall not thereafter be put on any jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the commonwealth.

Who may be summoned as jurors in James City county.

20. The sheriff of the county of James City for the time being, and his under sheriffs and deputies and every of them, shall be and are hereby empowered and authorized, to summon jurors of the inhabitants of James City county in all and every part of the city of Williamsburg, as well in that part lying in the county of York, as James City, to serve on juries on the days appointed for holding courts in the said county of James City.

Repealing clause.

21. All and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

22. This act shall commence in force from and after the passing thereof.

CHAP. 13.—An ACT directing the method of proceeding against free persons charged with certain crimes; declaring the mode of proceeding on indictments, informations, and prosecutions on penal statutes; and for preventing vexatious and malicious prosecutions, and moderating amercements.

(Passed November 13, 1792.)

Free persons charged with criminal offences, how and by whom to be committed.

1. *Be it enacted by the general assembly* That when any person, not being a slave, shall be charged before a justice of the peace, with any criminal offence, which in the opinion of such justice ought to be examined into by the county or corporation court, the said justice shall take the recognizance of all material witnesses to appear before such county or corporation court, and immediately by his warrant commit the person so charged to the county or corporation jail, and moreover shall issue his warrant to the sheriff of the county or serjeant of the corporation, requiring him to summon the justices of the county or corporation, to meet at their courthouse on a certain day, not less than five, nor more than ten days after the date thereof, to hold a court for the examination of the fact, which court shall consider, whether, as the case may appear to them, the prisoner may be discharged from further prosecution, may be tried in the county or corporation, or must be tried in the district court. If they shall be of opinion, that the fact may be tried in the county or corporation, the prisoner shall be bound over to the next grand jury, to be held for that county or corporation, then to be tried, or, upon refusing to give sufficient bail, shall be remanded to the county or corporation jail, there to remain until such court, or until he or she shall be bailed. If they shall be of opinion that the prisoner ought to be tried in the district court, they

Examining court, how to be summoned, and what its powers.



shall take the depositions of witnesses, and bind such as they shall think proper, by recognizance to appear and give evidence against such criminal at his or her trial, and having remanded the prisoner to jail, any two of the justices by warrant under their hands and seals, shall direct the sheriff or his deputy, or serjeant to remove the prisoner and commit him or her to the district jail, there to be safely kept until he or she shall be discharged by due course of law; by virtue of which warrant, the sheriff or his deputy, or serjeant, as soon as may be, shall remove the prisoner, and deliver him or her with the warrant to the keeper of the district jail, who shall receive and keep him accordingly. And for enabling the sheriff or his deputy, or serjeant, safely to convey and deliver such prisoner, the said two justices, by their warrant, shall empower him, as well within his county as without, to impress such and so many men; horses and boats, as shall be necessary for the guard and safe conveyance of the prisoner, proceeding therein as the law may direct in cases of impressing on other occasions; and all persons are to pay due obedience to such warrant.

How criminals shall be conveyed to the district jails.

2. If such prisoner shall in the opinion of the court be bailable by law, they shall enter that opinion in their proceedings, and also the sums of money in which he and his bail ought to be bound, and he or she shall not be removed within twenty days after the examining court, but shall and may be admitted to bail, before any justice of the same county or corporation within that time, or at any time afterwards before any judge of the general court. When any prisoner shall be thus admitted to bail by any judge of the general court, the judge shall transmit the recognizance to the clerk of the district court, and give a warrant for the deliverance of the prisoner; and the warrant being put into the hands of the officer in whose custody the prisoner shall be, he shall thereupon be delivered, if he be detained for no other cause.

When bailable before a justice of the peace or a judge of the general court

3. Any two judges of the general court when it is not sitting, may admit to bail a prisoner when they shall think him or her entitled thereto, and grant a warrant for his deliverance, notwithstanding the justices before whom the examination was, shall have been of a different opinion.

When bailable before two judges of the general court.

4. When the justices shall have determined that a prisoner ought to be tried for an offence in the district court, the clerk of the court where such examination shall be had, shall issue a *venire facias* to be directed to the sheriff or serjeant, commanding him to cause twelve good and lawful men, freeholders of his county or corporation, of the neighbourhood of the place where the fact shall have been committed, to come before the judges of the district court, at the time the witnesses shall be bound to appear there, which writ shall be executed by the said sheriff or serjeant, and the freeholders summoned by virtue thereof, or such of them as appear and be not challenged, together with so many other good and lawful men of the bystanders, being freeholders within this commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of such bystanders shall be a lawful jury for the trial of the prisoner. No justice of the peace, or member of a corporation court, who shall have committed any person for examination by the court of his county or corporation, or shall have been a member of the examining court, shall be sworn on the petit jury impanelled for the trial of such person.

Juries, how formed.

No justice committing a criminal, or sitting on the examining court, to be sworn on the petit jury.





Process against persons not in custody, indicted of treason or felony.

5. After any person shall be indicted of treason or felony, if he or she be not already in custody, the sheriff shall be commanded to attach his or her body, by writ, or by precept which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias*, shall be immediately made returnable forthwith, in which the sheriff shall also be commanded to seize his or her chattels, and safely to keep them; and if he return that the body is not found, and the indietee cometh not, an *exigent* shall be awarded, and the chattels shall be sequestered; but if he or she come, and yield himself or herself, or if he or she be taken before the return of the fourth *capias*, the goods and chattels shall be saved to him or her, otherwise they shall go and be vested as by law is hereinafter directed.

Prisoner to have copy of the indictment and pannel.

6. In all trials for such offences, the prisoner shall have a copy of the indictment, and of the pannel of the jurors, who are to try him or her, whensoever he or she shall require it before trial or sentence.

Jurors, how challenged by the prosecutor for the commonwealth.

7. Whensoever an inquest be about to be taken in any court, in which inquest the commonwealth is a party, if he who appears and sues in behalf of the commonwealth, will challenge any of the jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the court; and if such challenge be sufficient, the juror shall be rejected, or if insufficient, he shall be admitted, and in either case the inquest shall be proceeded in.

How many may be peremptorily challenged by the prisoner.

8. No person arraigned for treason, shall be admitted to a peremptory challenge above the number of twenty-four, nor shall any person arraigned for murder or felony, be admitted to a peremptory challenge above the number of twenty.

Prisoners to be tried at the first term.

9. When the grand jury shall have presented to the district court, a bill of indictment against any person charged with treason or felony, the court shall cause the offender to be arraigned and tried the same term, if he be in the custody of the jailor, or if he be bailed and forthcoming agreeable to his recognizance, unless they see good cause to adjourn the trial to the next term; and shall allow him counsel to assist him at his trial if he desire it.

To be allowed counsel.

When they shall be bailed, or discharged if not tried.

10. When any prisoner committed for treason or felony, shall apply to the court the first day of the term, by petition or motion, and shall desire to be brought, to his trial before the end of the term, and shall not be indicted in that term, unless it appear by affidavit that the witnesses against him cannot be produced in time, the court shall set him at liberty, upon his giving bail in such penalty, as they shall think reasonable, to appear before them at a day to be appointed of the succeeding term. Every person charged with such crime, who shall not be indicted before, or at the second term after he shall have been committed, unless the attendance of the witnesses against him appears to have been prevented by himself, shall be discharged from his imprisonment, if he be detained for that cause only; and if he be not tried at or before the third term after his examination before the justices, he shall be forever discharged of the crime.

Their witnesses, how to be summoned and paid for their attendance.

11. If a prisoner shall desire any witnesses to be summoned for him or her to appear, either at the examining court, or on the trial at the district court, the clerk of the said court, or of the county or corporation court (as the case may be) shall issue subpoenas for



such witnesses, who, being summoned, and attending, shall have the like allowance for travelling and attendance, and be subject to the same penalty for failing to attend, as is provided for witnesses in civil cases.

12. Execution of a sentence of death shall not be done in less than thirty days after judgment shall have been given against the prisoner.

A sentence of death not to be executed in less than thirty days.

13. Where the prisoner shall be convicted, and hath estate sufficient to pay the charges of prosecution, the whole shall be paid out of such estate, and the public only made chargeable where there is no estate, or not sufficient, to be found, and the auditor is hereby directed to transmit to the sheriff of the county where the estate of the said prisoner shall be, an account of the said expenses, and the sheriff shall distrain and be accountable for the same as for public taxes.

Charges of prosecution to be defrayed out of the prisoner's estate, if convicted.

14. To the end that a certain and adequate mode may be fixed by law for the regular payment of the expenses attending the examination and trial of criminals in the county and other inferior courts, in all cases where such expenses ought to be paid by the public: *Be it enacted*, That the several county and corporation courts within this commonwealth, having jurisdiction in such examinations and trials, shall annually, in the month of September or October, cause to be certified to the auditor of public accounts, all claims for expenses accruing after the first day of January, one thousand seven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their respective counties and corporations, for conveying them to the district jails for further trial, and for imprisonments for misdemeanor or breach of the peace, and all other charges properly chargeable to the public, together with the vouchers on which such claims have been allowed; and the auditor is hereby authorized and required to liquidate and adjust the said claims, and to grant warrants on the treasury to the respective claimants for the amount of their claims.

Expenses attending criminal prosecutions in the county courts, how to be liquidated and paid.

15. The clerks of the district courts shall enter in books to be kept for that purpose, the names of jurors attending for the trial of prisoners, and the names of witnesses appearing on behalf of the commonwealth or the prisoner, with accounts of the days they shall have attended, the ferries they shall have crossed, and the distances they shall have travelled on that occasion, and certify such entries to the auditor of public accounts.

Attendance of veniremen and witnesses in the district courts, to be certified to the auditor.

16. Where any person shall be feloniously stricken or poisoned in one county or corporation, and shall die of the same stroke or poisoning in another county or corporation, the offender shall be examined according to law, by the court of the county or corporation where such stroke was given, or poison administered, and he shall be tried in the court of the district in which such county or corporation lies.

Where offender to be examined and tried, when one feloniously stricken or poisoned in one county dies in another.

17. In like manner an accessory to a murder or felony committed, shall be examined by the court of that county or corporation, and tried by the court of that district in which he became accessory; and shall answer upon his arraignment, and receive such judgment, order, execution, pains, and penalties, as are used in other cases of murder or felony.

Where accessories shall be examined and tried.

18. Whosoever in treason or felony any person shall stand mute on his arraignment, or persist after being admonished by the court

Prisoner standing mute, or peremptorily challenging





more jurors than he legally may, or outlawed, to be deemed convicted.

in not answering to the indictment, or in peremptorily challenging above the number of jurors which by law he may be allowed to challenge peremptorily, or shall be outlawed, he shall be considered as convicted, and the same judgment, execution, and disabilities, shall take place and be awarded as if he had been convicted by verdict, or confession of the crime.

How criminals are to be conveyed to the counties where the offences were committed.

19. If treason or felony be committed in a county or corporation, different from that in which the culprit shall be arrested, any justice of that county or corporation, in which he or she is arrested, may by his warrant cause the offender to be put into the custody of the sheriff or serjeant, to be by him conveyed to the county or corporation where the offence was committed (and every sheriff or serjeant while he shall officiate in execution of this act, may impress so many men, horses, and boats, as may be necessary for the safeguard and conveyance of the offender into such other county or corporation) and there brought before some justice thereof, who shall proceed in like manner, as if the offender had been brought before him in the first instance; and the sheriff or serjeant for removing a criminal from one county or corporation to another, shall be allowed the same fee per mile for such service as is allowed to sheriffs for removing criminals from the county to the district jail, to be paid in like manner as other expenses for criminal prosecutions.

Copy of depositions and of the warrant of commitment to be sent to the attorney for the commonwealth in the district.

20. When any person shall be removed to be tried for treason or felony, in the district court, the clerk of the court for the county or corporation from whence the prisoner is removed, shall immediately after the court holden for his or her examination, transmit to the attorney for the commonwealth in the district court, a copy of the warrant for his or her commitment, and of the depositions taken on the examination.

Additions of defendant's estate or degree, &c. in indictments.

21. In indictments in which the exigent shall be awarded in the names of the defendants in such indictments, additions shall be made of their estate or degree, or mystery, and of the counties of which they were or be, or in which they be or were conversant, and if on the process upon the said indictments in which the said additions be omitted, any outlawries be pronounced, they shall be void, frustrate, and holden for none, and before the outlawries be pronounced, the said indictments shall be abated by the exception of the party wherein the said additions be omitted.

Words "force and arms" in indictments, not essentially necessary.

22. In any inquisition or indictment, the words "force and arms" or any particular words descriptive of any particular kind of force and arms, shall not of necessity be put or comprised.

No indictment to be quashed, or judgment thereon reversed, for omission of the name of any parish, town, &c.

23. No indictment for high treason, misprision of treason, murder or other felony or offence whatsoever, shall be quashed for the omission of the name of any parish, town, ville or hamlet, within any county of this commonwealth, nor shall such omission after conviction on such indictment, be any cause to stay or arrest judgment, nor shall any judgment on such indictment be liable to be reversed on a writ of error by reason of such omission.

Rules respecting the filing of informations for trespasses or misdemeanors.

24. No information for a trespass or misdemeanor, shall be filed in any court but by express order of the court, entered on record, nor unless the party supposed to be culpable, shall have failed to appear and shew good cause to the contrary, having been required to do so by a summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode; and the name and surname of the prosecutor, and the town or county in



which he shall reside, with his title or profession, shall be written at the foot of the information, before it be filed, and of every bill of indictment for any trespass or misdemeanor before it be presented to the grand jury.

25. If the grand jury to whom such a bill of indictment last mentioned, is preferred, shall not find the bill, or if the defendant shall appear to shew cause against the filing such information or to answer such information or indictment, and the prosecutor shall not proceed further, or if the defendant shall be found not guilty by the petit jury, or a judgment shall be given for him, he shall recover his costs against the prosecutor, with an attorney's fee, if one was employed, and the allowances to witnesses to be taxed in the bill of costs, and may have execution for them, as the manner is in civil cases. When the defendant shall recover his costs thereon.

26. In every such information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the estate of the defendant, shall be assessed by twelve honest and lawful men, either those by whom the offender shall have been convicted, in case of a verdict, or those who shall be impannelled for that special purpose, where judgment shall be given against him upon the argument of a demurrer, or by his confession or default. Fines to be assessed by juries.

27. No escheator, sheriff, coroner, or other inquisitor, shall hereafter have power of amercement for default of common summons; save only the judges of the general and district courts, or the respective county or corporation courts. No fines to be imposed by sheriffs, &c. for default of common summons.

28. Upon presentment made by the grand jury of an offence not capital, the court shall order the clerk to issue a summons or other proper process against the person or persons so presented, to appear and answer such presentment at the next court, and thereupon hear and determine the same according to law. Process on presentments for offences not capital.

29. If any private person having any prisoner in his keeping, arrested for suspicion of felony, treason, or murder, and the person that is so arrested, escape by negligent keeping, before that he be brought to the jail, then the person from whom such prisoners so escaped, shall be liable to a fine on being found guilty on an indictment in the court of that district in which such escape was made. Penalty on private persons suffering criminals to escape.

30. No sheriff, under sheriff, nor escheator, nor any other person, shall take or seize the goods of any person accused or indicted of, or for, treason, murder, or other felony, except only in such cases where he shall be commanded by the precept of *capias* herein before directed, to seize the chattels of a person not in custody, against whom an indictment for any such offence shall have been previously found, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt to be pursued in any court of record. None to seize the goods of criminals, until they are forfeited.

31. Whensoever any person shall happen to be attainted, convicted, or outlawed, of any treason, misprision of treason, murder or felony, whatsoever, there shall in no case be a forfeiture to the commonwealth, of dower, or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood; any law or usage to the contrary in any wise notwithstanding. Estates of persons convicted, attainted, or outlawed, of treason, felony, &c. to descend and pass as if they had died intestate. No attainder to work a corruption of blood.

32. Saving to all and every other person and persons, bodies politic and corporate, their heirs and successors, and to every of them (other Reservation of the rights of all per-





sons other than the offender's.

than to such offender as shall be attainted, convicted or outlawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity, and hereditaments, as they or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction or outlawry.

Approvers in no case to be admitted.

33. Approvers shall never be admitted in any case whatsoever.

Actions, &c. on penal laws, within what time to be commenced.

34. All actions, suits, bills, indictments, or informations, which shall be had, brought, sued or exhibited upon any penal act of assembly, not affecting life or limb, made or to be made, shall be had, brought, sued or exhibited within one year next after the offence committed against such penal act, and not after.

When special bail shall be requirable in such actions.

35. No special bail shall be requirable in any suit brought upon a penal law, unless by such law, bail shall be expressly directed.

How suits may be brought for fines against justices. Penalties not exceeding 20 dollars, or 800 lbs. tobacco, how recoverable.

36. In all cases where a fine is laid upon the justices of any county, one action may be brought against them all jointly.

37. Where the penalty incurred by the breach of any penal law shall not exceed twenty dollars or eight hundred pounds of tobacco, the same may be sued for and recovered in the manner directed by law for debts of like amount.

Prosecutors for offences not capital, may be compelled to give security for costs.

38. *And be it further enacted*, That in all indictments for assaults and batteries, and other offences not capital, now depending or hereafter to be prosecuted, it shall be lawful for the court before whom the same shall be depending, upon good cause to them shewn, to compel the prosecutor to find security for payment of the costs, and if such prosecutor shall fail to give security accordingly, the indictment shall be dismissed with costs.

Repealing clause.

39. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act (except as herein-after provided) shall be and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this act.

Proviso.

Commencement.

40. This act shall commence in force from and after the passing thereof.

#### CHAP. 14.—An ACT declaring at what time restitution shall be made of goods stolen.

(Passed October 22, 1792.)

Courts before whom felons are convicted, may award restitution of the goods stolen by them.

1. *Be it declared and enacted by the general assembly*, That if any felon or felons do rob or take away any money, goods, or chattels, from any person within this commonwealth, whether from their person or otherwise, and thereof the said felon or felons be afterwards convicted or attainted, that then the party so robbed, shall be restored to his said money, goods or chattels; and the court before whom such felon shall be convicted or attainted, shall have power to award, from time to time, writs of restitution accordingly.

Repealing clause.

2. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.





CHAP. 15.—An ACT for limitation of actions; for preventing frivolous and vexatious suits; concerning jeofails, and certain proceedings in civil cases.

(Passed December 19, 1792.)

1. *Be it enacted by the general assembly*, That all writs of *formedon in descender*, remainder, or reverter of any lands, tenements or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued and not afterwards; and that no person or persons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards. Limitation of real actions.

2. *Provided nevertheless*, That if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not within this commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards. Exception.

3. In all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ. Rules in writs of right.

4. All actions of trespass, *quare clausum fregit*, all actions of trespass, detinue, action *sur trover*, and replevin, for taking away of goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors, or servants; all actions of debt, grounded upon any lending, or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say: The said actions upon the case, other than for slander, and the said actions for account and the said actions for trespass, debt, detinue, and replevin for goods and chattels, and the said action of trespass, *quare clausum fregit*, within five years next after the cause of such action, or suit, and not after; and the said actions of trespass, of assault, battery, wounding, imprisonment, or any of them, within three years next after the cause of such actions or suit, and not after; and the said action upon the case for words, within one year next after the words spoken, and not after. Limitation of personal actions, except accounts between merchants, &c.

5. Judgments in any court of record within this commonwealth where execution hath not issued may be revived by *scire facias* or an action of debt brought thereon within ten years next after the date of such judgment, and not after; or where execution hath issued and no return is made thereon, the party in whose favor the same was issued shall and may obtain other executions, or move against Case, account, trespass, *quare clausum fregit*, &c. Actions of replevin, to be brought within five years after the cause of action accrued. Trespass, assault, battery, wounding and imprisonment, in three years. Slander within one year. Within what time the plaintiff must proceed on a judgment on which execution hath not issued. When it hath issued, but hath not been returned.



any sheriff or other officer, or his or their security or securities for not returning the same for the term of ten years from the date of such judgment, and not after.

Proviso in favor of infants, *femes covert*, persons *non compos*, imprisoned or out of the state.

6. *Provided*, That if any person or persons entitled to such judgment, where execution hath not issued, or where execution hath issued, and no return made (in either case) shall be or were under the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, or not within this commonwealth at the time of such judgment being awarded, whether execution hath issued thereon or not, every such person, his or her heirs, executors or administrators, shall and may, notwithstanding the said ten years are or shall be expired, have the benefit of said judgment where no execution hath issued by reviving the same by *scire facias*, or by action of debt, and where execution hath issued and no return made, every such person or persons, his or her heirs, executors or administrators may have the benefit of other executions, or may move against any sheriff or other officer, or his or their security or securities for the same within five years after such disabilities removed and not after.

On store accounts within one year.

All actions or suits founded upon any account for goods, wares and merchandise sold and delivered, or for any articles charged in any store account, shall be commenced and sued within one year next after the cause of such action or suit, or the delivery of such goods, wares and merchandise, and not after; except that in case of the death of the creditors or debtors, before the expiration of the said term of one year, the further time of one year from the death of such creditor or debtor, shall be allowed for the commencement of any such action or suit.

In store accounts, the date of the delivery of the articles to be specified.

7. And to prevent imposition or deception herein, the respective time or date of the delivery of the several articles charged in any such account, or any receipt taken for the delivery of them, shall be particularly specified.

Penalty for post-dating such accounts.

8. And if any merchant or trader shall wilfully post-date, any article or articles in such account, or the receipt taken for the delivery of them, he shall forfeit and pay tenfold the amount of the article or articles or of the receipt taken for the delivery of them, so post-dated, to be recovered with costs in any court of record, by petition, where the penalty incurred shall be under sixteen dollars and sixty-six cents, or amounts to that sum only, and by action of debt or information, where the penalty shall be more than sixteen dollars and sixty-six cents, to the informer, where the informer prosecutes, or to the commonwealth, where the prosecution shall be first instituted on the public half.

Limitation to commence from the respective dates or delivery of the articles.

9. And to prevent any doubt in the construction hereof, it is hereby declared, that the before mentioned limitation of one year, shall take place and be computed, from the respective dates or times of delivery of the several articles entered or charged in any such account; and that all such articles as shall have been of more than one year's standing when the action or suit was commenced, shall be disallowed and rejected, and verdict shall be given or judgment rendered for no more than the amount of such articles as appear to have been actually charged or delivered within one year next before the commencement of the suit as aforesaid.

Verdict or judgment to be given only for what was delivered within the year.

Proviso within what time plaintiff may re-commence his action where

10. *Provided nevertheless*, That if in any of the said actions or suits, judgment be given for the plaintiff, and the same be afterwards reversed by error, or a verdict pass for the plaintiff, and upon





matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, in all such cases the party plaintiff, his heirs, executors or administrators (as the case shall require) may commence a new action or suit, from time to time, within one year next after such judgment reversed, or such judgment given against the plaintiff, and not after.

11. *Provided always*, That in all questions which may arise in any court of record upon any act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of April, one thousand seven hundred and seventy-four, and the twelfth day of April, one thousand seven hundred and seventy-eight, and between the first day of January, one thousand seven hundred and eighty-one, and the fifth day of January, one thousand seven hundred and eighty-two, and between the fifth day of May, one thousand seven hundred and eighty-three, and the twentieth day of October, in the same year, shall not be accounted any part thereof, so as to bar such action, entry or evidence.

In the computation of time under the act of limitations, certain periods not to be accounted part thereof.

12. *Provided also*, That if any person or persons that is or shall be entitled to any such action of trespass, detinue, action *sur trover*, replevin, actions of account, actions of debt, actions of trespass for assault, menace, battery, wounding or imprisonment, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond the seas, or out of the country, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited after their coming to, or being of full age, *discover*, of sane memory, at large, and returned from beyond the seas, or from without this country, as by other persons, having no such impediment, should be done.

Infants, *femes covert*, persons *non compos*, imprisoned, beyond seas, or out of the country, may bring suit within the time limited, after such impediments removed.

13. *Provided always*, That all suits hereafter brought in the name or names of any person or persons residing beyond the seas, or out of this country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor or factors, shall be commenced and prosecuted within the time appointed and limited by this act, for bringing the like suits, and not after, notwithstanding the saving herein before contained, to persons beyond the seas at the time their causes of action accrued: *Provided nevertheless*, That if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor, to commence and prosecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with such factor.

Except persons out of the country bringing suit for goods sold by their factors.

14. *Provided also*, That if any person or persons, defendant or defendants to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the country, or the county where he or they do or shall reside, when such cause of action accrued, or by any other indirect ways or means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all or any of the aforesaid actions within the respective times limited by this act, that then and in such case, such defendant or defendants are not to be admitted to plead this act in bar to any of the

*Proviso.*

In what cases the defendants shall not have the benefit of this act.





aforesaid actions; any thing in this act in any wise to the contrary notwithstanding.

15. *Provided also*, That this act shall not extend to any action which shall be commenced against any master or commander of a ship or vessel, who shall discharge or cause to be put on shore any sick or disabled sailor belonging to his ship or vessel, or any servant without taking due care for their maintenance and cure, or carrying any debtor, servant or slave out of this commonwealth contrary to law.

When the plaintiff shall not recover costs.

16. And for the relief of the good people of this commonwealth against causeless and vexatious suits, and for the better enabling them to recover their just rights: *Be it enacted*, That in all actions of assault and battery, and slander, commenced and prosecuted in in any district court, if the jury find under the sum of sixteen dollars and sixty-six cents, and in the like actions commenced and prosecuted in any county court, if the jury find under six dollars and sixty-six cents, the plaintiff in either case, shall not recover any costs.

Where no more costs than damages.

Remedy where more costs shall be awarded.

17. And in all actions of trespass, and all other personal actions, where the court before whom the trial shall be, shall not be satisfied, and enter upon the record, that the freehold, title or interest of land mentioned in the plaintiff's declaration, was or might have been in question, or that the trespass was wilful or malicious, if the jury find under six dollars and sixty-six cents, the plaintiff shall not recover more costs than damages; and if more costs are awarded, the judgment shall be void, and shall be amended upon a motion at any time, by the court who awarded the same, and the party injured shall be redressed, as to such costs so wrongfully awarded, in case the same be levied upon him. And where several persons shall be made defendants in any action of trespass, assault, false imprisonment, or ejectment, and upon the trial thereof, any one or more of them shall be acquitted by verdict, every defendant so acquitted shall have and recover his costs of suit in like manner as if a verdict had been given against the plaintiff or plaintiffs and acquitted all the defendants, unless the court before whom such cause shall be tried, shall be satisfied that there was reasonable cause for making such person or persons defendant or defendants to such action, and shall order it otherwise; and in all cases where judgment shall be given for the defendant, he shall recover his costs against the plaintiff, and have execution for the same.

Where the defendant shall have his costs.

Exception as to executors or administrators.

18. *Provided always*, That nothing herein contained shall be construed to extend to executors or administrators, in such cases where by the law they are not liable to the payment of costs of suit.

In trespass *quare clausum fregit*, if the defendant pleads a disclaimer and involuntary trespass, with tender of amends if it be found for the defendant, or the plaintiff be non-suited, he shall be barred.

19. And in all actions of trespass, *quare clausum fregit*, hereafter to be brought, wherein the defendant or defendants shall disclaim, in his or their plea, to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon, or upon some of them, the plaintiff or plaintiffs shall be enforced to join issue; and if the said issue be found for the defendant or defendants, or the plaintiff or plaintiffs, shall be non-suited,



the plaintiff or plaintiffs shall be clearly barred from the said action or actions, and all other suits concerning the same.

20. In all actions where the plaintiff shall die after an interlocutory judgment, and before final judgment obtained therein, such action shall not abate, if the same might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory judgment, and before final judgment, such action shall not abate, if the same were originally maintainable against the executors or administrators of such defendant, but the plaintiff (or, if he be dead, after such interlocutory judgment, his executors or administrators) shall and may have a *scire facias* against the defendant, if living, after such interlocutory judgment (or if he died after, against his executors or administrators) to shew cause why damages in such action should not be assessed, and recovered by the plaintiff or plaintiffs; and if such defendant or his executors or administrators, shall appear at the return of such writ, and not shew or alledge any matters sufficient to arrest the final judgment, or being returned warned, or upon two writs of *scire facias*, it be returned, that the defendant or his executors or administrators, had nothing whereby to be summoned, or could not be found in the county, shall make default, a writ of enquiry of damages shall be thereupon awarded, which being executed, judgment final shall be given for the said plaintiff, his executors or administrators, prosecuting such writs or writs of *scire facias* against such defendant, his executors or administrators. And if there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of action should survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the writ or action shall proceed, at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants. And in all actions real, personal and mixed, if either party should die between verdict and judgment, such death shall not be pleaded in abatement, but judgment shall be entered as if both parties were living.

Where a suit shall not abate by the death of either party.

21. In all actions upon any bond, or on any penal sum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the plaintiff or plaintiffs may assign as many breaches as he or they shall think fit; and the jury, upon trial of such action, or actions, shall and may assess damages for such of the breaches as the plaintiff shall prove to have been broken, and on such verdict the like judgment shall be entered as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the plaintiff, his executors and administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such

Rules in actions for non-performance of covenants, &c.

On bonds for payment of money.





In other actions of debt.

Powers of attorney for confessing judgments and releasing errors before suit brought, void.

Suits brought by persons residing out of the state, to be dismissed, if security be not given for the costs.

Actions of account may be brought against executors or administrators of guardians, bailiffs and receivers, and by one joint tenant or tenant in common, against the other.

Process in real actions.

Judgments not to be reversed for certain defects in the process or pleadings.

bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the defendant shall bring into court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar.

22. All powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this commonwealth, before action brought, shall be, and are hereby declared to be absolutely null and void.

23. Every action at common law, or suit in equity, commenced in the name of a person not residing in Virginia, unless he be employed abroad in the service of the commonwealth, or of the United States of America, shall be dismissed, if security be not given with the clerk of the court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall at any time during such non-residence, have been given to the demandant, or plaintiff or his attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the tenant or defendant, and also of the fees which will become due to the officers of the court.

24. Actions of account shall and may be brought and maintained against the executors or administrators of every guardian, bailiff and receiver, and also by one joint tenant or tenant in common, his executors or administrators, against the other as bailiff, for receiving more than comes to his just share or proportion, and against the executors or administrators of such joint tenant, or tenant in common.

25. Process in all real actions, other than writs of right, shall be according to the course of the common law, except that the returns shall be according to the laws of this commonwealth, but all *essoins*, views and vouchers be, and are hereby taken away; and after one imparlance, unless the tenant shall plead non-tenure, joint tenancy, or several tenancy, in abatement, and then, after such plea shall be overruled, he shall put himself upon the grand assize, and the *mise* shall be joined upon the mere right, and be tried at the next court by twelve jurors, to be summoned, tried and sworn as in all other actions. And to remove all delays and groundless pretences in saving the default of the tenant, no excuse shall be admitted but non-summons; and such excuse being allowed, he may imparle, and at the next court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid.

26. No judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of attorney, or for the appearance of either party, being under the age of twenty-one years, by attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into court; or for omission of the words





"with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of merchandise, day, month, or year, in the declaration or pleading, (the name, sum, quantity or time being right in any part of the record or proceeding,) or for omission of the averment, "this he is ready to verify," or, "this he is ready to verify by the record," or for not alledging as appeareth by the record, or for omitting the averment of any matter, without proving which, the jury ought not to have given such verdict, or for not alledging that the suit or action is within the jurisdiction of the court, or for any informality in entering up the judgment by the clerk; neither shall any judgment entered upon confession, or by *nihil dicit*, or *non sum informatus*, be reversed, nor a judgment after inquiry of damages be stayed or reversed for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict.

27. Where a demurrer shall be joined in any action, the court shall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what shall be specially alledged in the demurrer, as causes thereof, unless something so essential to the action or defence, as that judgment according to law, and the very right of the cause cannot be given, shall be omitted.

What defects to be regarded in case of demurrer.

28. In controversies affecting lands, tenements, or hereditaments, possession of part shall not be construed a possession of the whole, when an actual adverse possession can be proved.

When a possession of part of lands shall not be deemed a possession of the whole.

29. Actual possession need not be proved to maintain a writ of right.

Actual possession not necessary to maintain a writ of right.

30. Private acts of assembly may be given in evidence without pleading them specially.

Private acts of assembly may be given in evidence.

31. Papers read in evidence, though not under seal, may be carried from the bar by the jury.

Jury may take with them papers, though not under seal.

32. Interpreters may be sworn truly to interpret when necessary. Every person desirous of suffering a nonsuit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar.

Interpreters may be sworn. Rule respecting nonsuits.

33. Not more than two new trials shall be granted to the same party in the same cause.

How many new trials may be allowed.

34. After issue joined in an ejectment on the title only, no exception of form or substance shall be taken to the declaration in any court whatsoever.

Exceptions to declarations in ejectment, when to be made.

35. Any instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation as if it were actually sealed.

Scrolls by way of seals, valid.

36. If in detainue the verdict shall omit price or value, the court may at any time award a writ of enquiry to ascertain the same. If on an issue concerning several things in one count in detainue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted.

What omissions in verdicts in detainue may be remedied, and how.

37. Where there are several counts, one of which is faulty, and entire damages are given, the verdict shall be good; but the defendant may apply to the court, to instruct the jury to disregard such faulty count.

Where one of several counts is faulty, and there are general damages, the verdict shall be good.

38. An execution, writ or other process appearing to be duly served in other respects, shall be deemed good, although it be not directed to any sheriff.

Executions and other process duly served, good, though not directed to any sheriff.



Any judge of the general court or justice may take special bail.

Form of the recognizance of special bail.

Bail piece.

How notices may be given where no particular mode is prescribed by law.

A judgment by confession equal to a release of errors.  
Laws of costs not to be interpreted as penal laws.  
Regulations in this act to be observed in all the courts of this commonwealth.  
Repealing clause.

Proviso.

Commencement.

Preamble.

39. Any judge of the general court, when the district court is not sitting, or any justice of the peace, may take recognizance of special bail in any action depending in any court of record within this commonwealth, which shall be transmitted by the person taking the same before the next succeeding court, to the clerk of the said court, to be filed with the papers in such action:—The form of which recognizance shall be in the following words, to wit: “*county, to wit: MEMORANDUM, that upon the day of in the year , E. F. of the county of , personally appeared before me, (one of the judges of the general court, or a justice of the county aforesaid, as the case may be,) and undertook for C. D. at the suit of A. B. in an action of now depending in the (naming the court where the suit is depending,) that in case the said C. D. shall be cast in the said suit, he the said C. D. will pay and satisfy the condemnation of the court, or render his body to prison in execution for the same, or that he the said E. F. will do it for him.*”

40. The person taking such bail as aforesaid, shall, if required, at the same time, deliver to the person or persons acknowledging the recognizance aforementioned, a bail piece, in the words and form following, to wit: “*county, to wit: C. D. of the parish of , in the county aforesaid, is delivered to bail on a cepi corpus unto E. F. of the parish and county aforesaid, at the suit of A. B. the day of in the year .*”

41. Notice on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good, if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place, at the dwelling house, or other known place of residence of such person.

42. A judgment on confession shall be equal to a release of errors.

43. The law of costs shall not be interpreted as penal laws.

44. For removing all doubts concerning the courts to which this act may apply, *Be it further enacted*, That all things herein contained, shall be the rules of decision and proceeding in all courts whatsoever within this commonwealth.

45. All and every act or acts, and all parts of acts containing any thing within the purview of this act, shall be, and are hereby repealed.

46. *Provided*, That nothing herein contained shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this act, but the same shall remain in the same condition as if this act had never been made.

47. This act shall commence and be in force from and after the passing thereof.

CHAP. 16.—An ACT for reducing into one all acts and parts of acts concerning suits brought for sterling money, and for ascertaining the rate of exchange, and damages upon protested bills of exchange.

(Passed November 12, 1792.)

1. Whereas bills of exchange are accounted in all payments, as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by





making the same a sufficient security, and expediting the recovery of money thereupon:

2. *Be it enacted by the general assembly,* That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for nonacceptance or nonpayment, the drawer or indorser shall be subject to the payment of fifteen per centum damages thereon, and the bill shall carry an interest of five per centum per annum from the date of the protest, until the money therein drawn for shall be fully satisfied and paid.

Fifteen per cent. damages, and five per cent. per annum interest, to be paid on protested bills.

3. It shall be lawful for any person or persons, having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action of debt, for principal, damages, interest and charges of protest, against the drawers or indorsers jointly, or against either of them separately, and judgments shall and may be given for such principal, damages and charges, and interest upon such principal, after the rate aforesaid to the time of such judgment, and for interest upon the said principal money, recovered after the rate of five per centum per annum, until the same shall be fully satisfied.

How suits may be brought, and judgment entered thereon.

4. In all bills of exchange given for any debt due in current money of this commonwealth, or for current money advanced and paid for such bills, the sum in current money that was paid, or allowed for the same, shall be mentioned and expressed in such bill, and in default thereof, in case such bill shall be protested, and a suit brought for the recovery of the money due thereby, the sum of money expressed in such bill, shall be held and taken as current money, and judgment shall be entered accordingly; and if any person so receiving or purchasing a bill of exchange, shall express, or cause to be expressed therein, any other than the true sum in current money allowed for the same, every such person so offending, shall forfeit and pay to the person drawing such bill, the whole sum of money for which such bill shall be drawn, to be recovered with costs by action of debt, in any court of record within this commonwealth, wherein the same shall be cognizable.

In all bills of exchange is to be expressed what sum in current money was paid therefor.

Penalty for inserting any other sum.

5. And that people may not be injured for want of due proof, of the rate of exchange so given or allowed for such bills, where the same is not truly expressed therein, such bills being usually negotiated in secret, and with such caution that it can seldom be detected in the ordinary course of evidence: *Be it further enacted,* That it shall and may be lawful for any drawer of such bill of exchange, to exhibit a bill in chancery, in any court of record in this commonwealth, having chancery jurisdiction, against the person to whom such bill shall be payable, to compel him to discover upon his corporal oath the true difference of exchange given or allowed for such bill, and in that case if it shall appear that a less rate of exchange was given or allowed than is expressed, the drawer of such bill shall be discharged from the penalty herein before inflicted for the same, but shall be decreed to pay to the drawer so much money as the rate of exchange allowed, shall be less than the rate of exchange expressed, together with the damages of fifteen per centum thereon, and costs of suit, to the time of such decree.

Drawer may compel the drawee by bill in chancery, to discover the true rate of exchange.

6. In any action which hath been or shall be commenced, and is or shall be depending for the recovery of any sterling money, in any court of record within this commonwealth, wherein the plain-

Judgment for a sterling debt to be discharged at such a difference of ex-





change as the  
court shall think  
proper.

Where a person  
may declare for  
sterling money,  
and where not.  
Judgments on  
bonds, &c payable  
in sterling, for cur-  
rent money debts,  
at what rate of ex-  
change to be dis-  
charged.

Repealing clause.  
Proviso.

Commencement.

tiff or plaintiffs shall recover, such court shall have power, and are hereby directed by rule to be entered at the foot of their judgment in such action, to order such judgment to be discharged or levied in current money, at such a difference of exchange as they shall think just; any law, usage, or custom, to the contrary in any wise, notwithstanding.

7. If any person shall in any suit hereafter to be brought, declare for sterling money, except where the debt or duty is payable in sterling, the plaintiff in every such suit shall be nonsuited; and if any person shall after the passing of this act, take a bond, obligation, or note payable in sterling for any current money debt, and shall bring suit thereon, the court before whom such suit shall be tried, upon proof being made thereof, shall order the judgment to be discharged or levied in current money, at the rate of thirty-three and one-third per centum.

8. All and every act or acts, within the purview of this act, shall be, and are hereby repealed: *Provided*, That nothing herein contained, shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this act, but the same shall remain in the same condition as if this act had never been made.

9. This act shall commence in force from and after the passing thereof.

CHAP. 17.—An ACT directing the method of proceeding in courts of equity against absent debtors or other absent defendants, and for settling the proceedings on attachments against absconding debtors.

(Passed December 23, 1792.)

Preamble.

1. Whereas creditors have experienced great difficulties in the recovery of debts due from persons residing without the jurisdiction of this commonwealth, but who have effects here sufficient to satisfy and pay such debts: For remedy whereof,

Courts of equity  
may stop the ef-  
fects of absent de-  
fendants, who fail  
to enter appear-  
ance, in the hands  
of other persons.

2. *Be it enacted by the general assembly*, That if in any suit which hath been, or hereafter shall be commenced for relief in equity in the high court of chancery, or in any other court against any defendant or defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to, such absent defendant or defendants, and the appearances of such absentees be not entered, and security given to the satisfaction of the court for performing the decrees, upon affidavit that such defendant or defendants are out of the country, or that upon enquiry at his, her or their usual place of abode, he, she or they, could not be found so as to be served with process, in all such cases, such court may make any order, and require surety if it shall appear necessary, to restrain the defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent defendant or defendants, and for that purpose may order such debts to be paid and effects delivered to the said plaintiff or plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the court shall direct.

May direct them  
to be delivered to  
the plaintiff, on  
his giving  
security.

And shall appoint  
a day for the de-  
fendant's appear-  
ance.  
A copy of the or-

3. The court shall also appoint some day in the succeeding term for the absent defendant or defendants to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in some public newspaper



published in this state, convenient to the place where the court is held, and continued for two months successively, and another copy shall be posted at the front door of such court. If such absent defendant or defendants, shall not appear and give such security within the time limited, or such further time as the court may allow, for good cause shewn, the court may proceed to take such proof as the complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce the due performance and execution thereof by such ways and means as hath heretofore been used for enforcing other decrees, requiring the plaintiff or plaintiffs to give security as the court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent defendant or defendants, upon his or their appearance and answering the bill; and if the plaintiff or plaintiffs shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the court in the hands of a receiver, or otherwise, for so long time, and shall then be finally disposed of in such manner as to the court shall seem just.

der when and how to be published.

If the defendant fails to appear, the bill may be taken for confessed, and decree entered.

Plaintiff to give security for abiding such future order as may be made in the suit.

Plaintiff failing to give security, effects to remain under direction of the court.

4. If any person or persons who shall be out of the commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree, return and appear openly; or in case of his or her death, if his or her heir, executor or administrator shall, within the said seven years, be, and appear openly within this commonwealth, the plaintiff or plaintiffs, their executors or administrators, shall serve such person or persons so returning or appearing, with a copy of the decree, within a reasonable time after such return or appearance shall be known to the plaintiff or plaintiffs, and thereupon such defendant or defendants, or their representatives, may within twelve months after such service, or those defendants not served with a copy, or their representatives, may within seven years after the decree pronounced, appear in court and petition to have the cause reheard; and upon their paying down, or giving security for payment of such costs as the court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause. But if the several defendants, or their representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other defendants or their representatives, upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause reheard as aforesaid, and pay or secure to be paid, such costs as the court may think reasonable, all and every decree to be made in pursuance of this act against any defendant or defendants so failing, shall stand absolutely confirmed against him, her or them, by virtue of any act or conveyance, done or made, subsequent to the commencement of the suit; and at the end of such term, the court may make such further order for quieting the plaintiff or plaintiffs in any such suits, in their possession and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable.

When and how persons affected by such decrees may have their causes reheard.

5. In all cases whatever, where a suit is or shall be depending in the high court of chancery, or other court of equity, concerning

The same proceedings to be pursued against





other absent defendants, as against absent debtors.

any matter or thing whatever against any absent defendant or defendants, the court may on satisfactory proof to them made, that such defendant or defendants, is or are out of this commonwealth, or, that upon enquiry at his, her, or their usual place of abode, he, she, or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case; a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon if the appearance of such absent defendant or defendants be not entered, the complainant may proceed in like manner as if an appearance had been entered: *Provided always*, That where such decree shall be made, such absent defendant or defendants, may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside; upon which the court may make such decree as shall appear to be equitable.

Attachments against absconding debtors, how to be obtained, executed and returned.

6. If any person shall make complaint to any justice of the peace, that his debtor is removing out of the county or corporation privately, or absconds or conceals himself, so that the ordinary process of law cannot be served on him, such justice shall grant an attachment against the estate of such debtor, or so much thereof, as shall be sufficient to satisfy the debt and costs of such complainant; which attachment, where the debt or demand shall exceed five dollars or two hundred pounds of tobacco, shall be returnable to the next county or corporation court, and directed to and served by the sheriff, or his under sheriff, unless in case where the sheriff is a party interested; and then, the same shall be directed to, and served by a coroner, or serjeant; and it shall be lawful for such sheriff or officer, to serve and levy the same, upon the slaves, goods and chattles of the party absconding, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees to appear at the next court to be held for the said county or corporation, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the court may thereupon compel such garnishee to appear and answer as aforesaid.

Party obtaining one first to give bond and security, otherwise it shall be void.

7. *Provided always*, That every justice of peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the defendant, for satisfying and paying all costs which shall be awarded to the said defendant, in case the plaintiff suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said plaintiff for his suing out such attachment; which bond shall be by the same justice, returned to the court to which the attachment is returnable; and the party entitled to such costs or damages, may thereupon bring suit, and recover; and every attachment issued without such bond taken, or where no bond shall be returned, is hereby declared illegal and void, and shall be dismissed.

Attachments replevable by appearance, and giving bail, or security for appearance.

8. *Provided also*, That all attachments shall be replevable by appearance, and putting in good bail, if by the court ruled so to do, or by giving bond with good security to the sheriff or other officer serving the same; which bond, the sheriff or other officer is hereby





empowered and required to take, to appear at the court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such court.

9. *And be it further enacted*, That upon the defendant or defendants replevying any attached effects, by giving bond and security to the sheriff or other officer as aforesaid, the sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the court, and if the defendant shall fail to appear and give special bail, if thereunto ruled by the court, such sheriff and security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of *mesne* process.

10. *And be it further enacted*, That it shall be lawful for any creditor, where his debt doth not exceed twenty dollars or one thousand pounds of tobacco, to go before any justice of the peace of the county or corporation where his debtor resides, and make oath how much is justly due to him, and that he hath grounds to suspect, and verily believes, that such debtor intends to remove his effects; and thereupon such justice shall issue an attachment against the estate of such debtor, returnable to his next county or corporation court, directed to all sheriffs, serjeants, and constables within the commonwealth; and by virtue thereof, it shall be lawful as well for the sheriff, serjeant, or any constable of the county or corporation where such attachment shall be obtained, as for the sheriff, serjeant, or any constable of other counties or corporations, to pursue and seize such effects, and to make return of such attachment to the court where the same shall be returnable; and thereupon, such proceedings shall be had without a petition, as in other cases of attachment.

11. And upon complaint made to a justice of peace, that any person indebted to the complainant in any less sum than five dollars, or two hundred pounds of tobacco, is removing out of the county or corporation privately, or so absconds or conceals himself that a warrant cannot be served upon him, such justice shall, taking bond and security, as in this act is before directed, grant an attachment against the estate of such debtor, or so much thereof, as shall be of value sufficient to satisfy the debt and costs of the party praying such attachment, directed to the sheriff, or any constable of his county, or serjeant, or any constable of his corporation, and returnable before himself or any other justice thereof, who shall and may proceed thereupon, as upon an attachment returnable to the county or corporation court.

12. And if any attachment returnable to the county or corporation court, or before a justice of peace, shall be returned executed, and the goods or effects attached shall not be replevied as this act directs, the plaintiff shall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforesaid, shall be sold and disposed of, for and towards satisfaction of the plaintiff's judgment, in the same manner as goods taken in execution upon a writ of *fiert facias*. And where any attachment shall be returned served in the hands of any garnishee, it shall be lawful upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment and award execution against every such garnishee and garnishees, for all sums of money due from him, her, or them, to the person absconding, or in his, her, or their cus-

Rules where security is taken for appearance.

Method of prosecuting attachments where the debt does not exceed 20 dollars, or 1000 lbs. of tobacco.

Where it is under 5 dollars, or 200 lbs. of tobacco.

Where the attachment is not replevied, the plaintiff shall have judgment.

Judgment against the garnishee.



tody or possession, for the use of such person, or so much thereof as shall be of the value sufficient to satisfy the debt and costs of the complainant; and all goods and effects whatsoever, in the hands of any garnishee or garnishees belonging to such absconding person, shall be liable to satisfy such judgment.

Live stock attached to be supported by the officer.

13. And whereas attachments are frequently served upon horses, cattle, hogs, sheep, and other live stock, which the officers serving the same are obliged to retain in their custody for a length of time, before an order of court can be obtained for the sale of such live stock, or for want of buyers, during which time such stock frequently perish for want of proper food, or are greatly impoverished, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, That when any sheriff or other officer shall serve an attachment on horses or other live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such live stock, until such stock shall be sold or otherwise legally discharged from such attachment; and upon the trial of any attachment, the court before whom such attachment shall be tried, may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such stock, to be taxed in the bill of costs against the party against whom such judgment shall be given on such attachment, and the same shall be retained by the officer out of the money arising from the sale of such stock; and the said officer shall and may retain the expenses of supporting such stock, taken as aforesaid, out of the money arising from the sale, to be settled in manner aforesaid. And where the plaintiff in any attachment shall be cast, the expenses aforesaid shall be taxed in the bill of costs against such plaintiff, for which the defendant may take execution with the other costs.

And the expense defrayed out of the money arising from the sales.

Attachments may be issued on Sundays.

14. *And be it further enacted*, That upon proof being made before a magistrate, that a debtor is actually moving or absconding as aforesaid on Sunday, it shall be lawful to issue and serve an attachment against such debtor, as is directed by this act on any other day.

Penalty on master of a vessel carrying any person out of the commonwealth, unless such person has advertised in the gazette his intention to leave it.

15. No master of a ship or other vessel shall transport or carry any person whatsoever out of this commonwealth, unless such person shall first have published for six weeks successively in the Virginia gazette, his or her resolution to depart therefrom, under the penalty of answering and paying every debt and duty such person at his or her departure out of this commonwealth shall owe, or stand bound for to the commonwealth, or to any citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatsoever, to be recovered against such master by action of debt, in any court of record within this commonwealth.

Such master may be sued at any time, and ruled to give special bail.

16. Every master of every ship or other vessel offending herein, shall be liable to be sued at any time for any debt due or owing from the person so transported. And whensoever any such action or suit shall be brought against him, the court wherein the same shall be depending, may rule the defendant to give special bail, and the clerk shall endorse on the writ, that appearance bail is required: *Provided*, The plaintiff shall make affidavit before a magistrate of the cause of action, which shall be transmitted to the clerk of the court.





17. All and every act or acts, and part of acts within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

18. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 18.—An ACT declaring the law concerning the escape of debtors and other prisoners.

(Passed November 24, 1792.)

1. For the more effectual retaking and securing persons who escape out of prison: *Be it enacted*, That if any person committed, rendered, or charged in custody, in execution or upon *mesne* process, to any county or corporation prison, or to the jail of any district, shall thence escape, it shall and may be lawful for any justice of the peace in the county or corporation where such prisoner was in custody, upon oath of such escape before him made by the sheriff, under sheriff, serjeant, jailor, or other credible person, to grant unto any one demanding the same, one or more warrants under his hand and seal, directed to all sheriffs, mayors, serjeants, bailiffs and constables, within this commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them in their respective counties, cities, towns, and precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the prison where debtors are usually kept in the county or corporation where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of law; which warrant the sheriff or other officer is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his receipt of such prisoner, and shall also make return of the execution of such warrant to the court of that county, corporation, or district from whence the prisoner escaped; and if he or she was there in custody, charged in execution, then the sheriff or other officer shall safely keep him or her, without bail or mainprise, until he or she shall make full payment and satisfaction to the plaintiff or plaintiffs, creditor or creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of law. And if such prisoner shall have been in custody upon *mesne* process, in any action of debt, or upon the case, the sheriff or other officer to whom he or she shall be so recommitted, shall, in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the court of that county, corporation, or district wherein he or she was first arrested, and thereupon it shall be lawful for the said court, upon the plaintiff's or creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the case shall appear to them, in the same manner as if the defendant had appeared in the said court and refused to plead, unless such defendant shall cause special bail to be entered in the said court, and shall immediately plead to issue, and then upon certificate under the hand of the clerk of the said court, that such bail is given, delivered to the sheriff or other officer in whose custody such defendant then shall be, it shall be lawful for the said sheriff or other officer to set at large such prisoner, and not otherwise; but where any prisoner escaped and re-

Process against prisoners escaped.

Escape warrants.

Return thereof upon retaking the prisoner, and proceeding thereon.





taken upon such warrant as aforesaid, shall thereafter be charged with treason, felony, or other crime or cause in behalf of the commonwealth, for which he or she ought to be tried in the district court, and shall be for such cause removed to the jail of the district court, every such prisoner shall be charged in the said district jail, with all the causes wherewith he or she stood charged in the prison from whence he or she was removed, until he or she be thence delivered by due course of law in like manner as is herein before directed.

Mode of proceeding against prisoners escaping from the prison rules.

2. When any person in execution, who shall have obtained the liberty of the prison rules, by giving bond and security for the same, shall hereafter escape and go out of the same, the sheriff or other officer of the county or corporation where such prisoner was in custody, shall, and he is hereby required immediately to apply to a justice of the peace for an escape warrant, to retake such prisoner according to the directions of this act, and such sheriff or other officer shall and he is hereby required immediately to give notice thereof to the creditor at whose suit he was in custody, or to his attorney or agent, and shall assign over and deliver to such creditor, or his attorney, the bond by him taken for the liberty of the prison rules, who shall be obliged to receive the same; and thereupon it shall and may be lawful for such creditor, or his attorney, to pursue the method directed by this act for retaking such debtor upon the escape warrant aforesaid; and if he be retaken thereupon, and committed to jail, the securities for his keeping the prison rules, shall be discharged from their bond, or such creditor or his attorney, shall or may, at their election, commence and prosecute an action or suit at law against the security or securities named in such bond, for the recovery of his debt, notwithstanding he shall have applied for and obtained an escape warrant against his debtor, as aforesaid, if such debtor is not retaken and committed to jail thereupon, and the sheriff or other officer shall not be liable or answerable for the payment of the debt for which such prisoner was in custody, unless the security or securities named in the bond by him taken of such prisoner for the liberty of the prison rules, shall afterwards be found to have been insufficient for the payment of such debt at the time the same was taken.

Sheriff not liable unless the prisoner escaped with his consent, or through his negligence, or unless he neglected to retake him when he might.

Action of debt may be maintained against sheriff suffering debtor in execution to escape.

3. And whereas the situation of most prisons in this commonwealth, hath given opportunities to evil disposed persons to break open the same, and turn out debtors and others in custody, to the hindrance of justice, prejudice of creditors, and ruin of sheriffs, who have been compelled to pay the debts with which such prisoners stood charged: For remedy thereof, *Be it further enacted*, That no judgment shall be entered against any sheriff or other officer, in any suit brought upon the escape of any debtor in his or their custody, unless the jury who shall try the issue, shall expressly find that such debtor or prisoner did escape with the consent or through the negligence of such sheriff (or serjeant) or his officer or officers, or that such prisoner might have been retaken, and that the sheriff (or serjeant) and his officers, neglected to make immediate pursuit: *Provided always*, That where any sheriff or other officer shall have taken the body of any debtor in execution, and shall wilfully and negligently suffer such debtor to escape, the person suing out such execution, his executors or administrators, shall and may have and maintain an action of debt against such sheriff or other officer, his



executors or administrators, for the recovery of all such sums of money, and tobacco, as are mentioned in the said execution, and damages for detaining the same; any law, custom, or usage to the contrary, notwithstanding. If any private person have any prisoner in his keeping arrested for suspicion of felony, treason, or murder, and the person that is so arrested escape by negligent keeping, before that he be brought to the jail, then the person from whom such prisoner so escaped, shall be liable to a fine on being found guilty on an indictment in the court of that district in which such escape was made.

Penalty on private persons suffering criminals in their custody to escape.

4. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That all rights, remedies, fines, forfeitures and penalties, incurred previous to the passing of this act, shall remain in the same condition as if this act had never been made.

Repealing clause.

Proviso.

5. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 19.—An ACT to reduce into one, all acts and parts of acts relating to the appointment and duties of sheriffs.

(Passed November 23, 1792.)

1. *Be it enacted by the general assembly*, That the court of every county within this commonwealth, shall in the month of June or July, annually, nominate to the governor or chief magistrate for the time being, three persons named in the commission of the peace for such county, one of which persons so nominated, being approved by the governor, with the advice of the privy council, shall be commissioned by the governor to execute the office of sheriff in such county.

Sheriffs, how to be nominated and appointed.

2. If the court of any county shall fail to nominate persons for the office of sheriff, within the periods above described, every justice so neglecting, shall forfeit and pay the sum of two hundred dollars.

Penalty on the justices for not making the nomination.

3. If any person hereafter appointed sheriff of any county, shall not within two months after his appointment, give bond and sufficient security, for the true and faithful performance of his duty as sheriff, and also for the collection of taxes, the clerk of the court of such county shall, within one month thereafter, transmit to the governor for the time being, a certificate of such neglect or failure, under the penalty of three hundred dollars.

If a sheriff fails to give bond and security in two months, the clerk of the court to certify it to the executive.

4. If the person first commissioned to the said office of sheriff, shall fail to give bond in two months after his appointment, and the clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the governor or chief magistrate, for a commission, within one month after such nomination, the governor, with advice of council, is hereby authorized and required to issue a commission to some other person nominated by the court, which commission, to all intents and purposes, shall supersede and annul the former commission; and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the governor, with the advice of the council, is hereby authorized and required, in either case, to commission any other person or persons nominated by the court, which last commission shall in like manner supersede the former.

When the sheriff fails to give bond and security, or the person first nominated fails to apply for a commission, the executive may commission some other person.





How a sheriff is to be appointed in the room of one dying.

5. If any sheriff shall die in the time of his sheriffship, the governor, with the advice of the council, may, and is hereby empowered and required, to commission some other person nominated by the court, to be sheriff in his room.

How long they shall be continued in office.

6. Every person hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may, with his own consent, and the approbation of the executive, be continued for two years, and no longer; unless by some accident or impediment, a succeeding sheriff shall be prevented from qualifying, in which case the preceding sheriff shall continue to act, until a successor shall be qualified according to the directions of this act.

How long they shall continue in office when appointed in the room of others dying.

7. And whereas inconveniences and disputes may arise, in case of the death of the sheriff before his term of service may expire, and in such case the person appointed to succeed to the office of sheriff must serve one year from the time of such appointment, if not continued for two years, with his own consent, and with the approbation of the executive, and in that case for two years from such appointment, which may occasion the sheriffs in different parts of the country, to be appointed at different periods of the year: *Be it therefore enacted*, That when by the death of any sheriff, another shall be appointed at any other time than in the months of June or July, the governor, with advice of council, may continue such successor in office until the court to be held in the months of June or July next after his two years continuance therein, shall expire; any thing in this act to the contrary notwithstanding.

Sheriffs to give bond and security for duly collecting and accounting for the public taxes.

8. Every person accepting the commission of sheriff, shall, before his being sworn into or executing his office, enter into one bond before the justices of his county court, payable to the governor of this commonwealth, for the time being, and his successors, for the use of this commonwealth, with good and sufficient security, in the sum of thirty thousand dollars, for the true and faithful collecting, accounting for, and paying the taxes imposed by law in his county; which bond every county court is hereby empowered and required to demand, take, and cause to be acknowledged before them in open court, and recorded: And an attested copy thereof shall be transmitted by the clerk to the auditor of public accounts, which shall be admitted as evidence in any suit, motion or proceeding founded thereon.

When the executive may appoint collectors of the public taxes.

9. If upon the refusal to act, or disability of any sheriff, it shall appear proper to the executive to appoint a collector, it shall be lawful for them to make such appointment, and the person so appointed collector, shall give bond and security in the same manner as the sheriffs do for duly collecting and accounting for the public revenue, and shall possess every power, and be liable to every penalty, which the sheriff would have possessed or been liable to.

Sheriffs to give bond and security for duly collecting and accounting for all public levies, fines, &c.

10. Every person accepting the commission of sheriff, shall likewise enter into another bond with two good and sufficient securities at the least, in the sum of \_\_\_\_\_ with a condition in the following form, to wit: "*The condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed sheriff of the county of \_\_\_\_\_, by a commission from the governor, under the seal of the commonwealth, dated the \_\_\_\_\_ day of \_\_\_\_\_ last past: If therefore, the said A. B. shall well and truly collect all levies, and account for and pay the same in such manner as is by*





law directed, and also all fines, forfeitures and amercements, accruing or becoming due to the commonwealth in the said county; and shall duly account for and pay the same to the treasurer of this commonwealth for the time being, for the use of the commonwealth, in like manner as is or shall be directed in case of public taxes; and shall in all other things truly and faithfully execute the said office of sheriff, during his continuance therein; then the above obligation to be void, otherwise to remain in full force and virtue." And shall also enter into one other bond before such court, with the like securities, in the sum of \_\_\_\_\_, with a condition in the following

And for collecting and accounting for officers' fees, and duly discharging the duties of his office.

form, to wit: "The condition of the above obligation is such, that whereas the above bound A. B. is constituted and appointed sheriff of the county of \_\_\_\_\_, by commission from the governor under the seal of the commonwealth, dated the \_\_\_\_\_ day of \_\_\_\_\_ last past: If therefore the said A. B. shall well and truly collect and receive all officers' fees and dues put into his hands to collect, and duly account for and pay the same to the officers to whom such fees are due respectively, at such times as are prescribed and limited by law, and shall well and truly execute, and due return make of all process and precepts to him directed, and pay and satisfy all sums of money and tobacco by him received by virtue of any such process, to the person or persons to whom the same are due, his or their executors, administrators or assigns; and in all other things shall truly and faithfully execute and perform the said office of sheriff, during the time of his continuance therein, then the above obligation to be void, otherwise to remain in full force and virtue."

11. Which bonds shall be made payable to the governor or chief magistrate for the time being, and his successors, and entered of record in the county court. And in the name of the governor or chief magistrate, or his successors, any person or persons injured, may and shall at his, her or their costs and charges, commence and prosecute suits on such last mentioned bond, against the parties therein bound, their executors or administrators, and shall and may recover all damages which he, she or they may have sustained by reason of the breach of the condition of his bond; and such bond shall not become void upon the first recovery, or if judgment shall be given against any plaintiff or plaintiffs, who shall sue upon such bond; but may be put in suit and prosecuted from time to time, for the benefit, and at the proper costs and charges of any party injured, until the penalty expressed in such bond shall be recovered: *Provided always*, That if any verdict or judgment shall pass for such sheriff, or his security, the person at whose instance such suit shall be brought or prosecuted, shall pay such sheriff or his security their costs.

Sheriffs' bonds to whom to be made payable.  
How suits may be brought thereon.

12. No person whatsoever shall be capable to serve or execute the office of under sheriff, or deputy sheriff of any county, for any longer time than two years in any period of four years, unless he shall produce to the court of the county, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal.

No person to act as a deputy sheriff more than two years, unless he has collected and accounted for the public taxes.

13. Every sheriff, deputy sheriff, or collector, who shall hereafter receive from any person or persons, any officers' fees, dues, taxes, county levies, or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him;

Sheriffs and collectors to deliver to persons paying officers' fees, taxes, &c. their accounts and receipts.



and every sheriff, deputy sheriff, or collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of four dollars for each offence; to be recovered with costs before any justice of the peace of the county, where such sheriff, deputy sheriff or collector shall reside; and such sheriff or other officer shall moreover be liable to the party grieved for all damages he may sustain, by means of such officer's demanding and receiving a greater sum than shall be really due; to be recovered by action of trespass on the case, before any court of record within this commonwealth, in which action, where the plaintiff shall recover, he shall also recover full costs.

Sheriffs and other officers to execute process within their counties, and on the bays, rivers and creeks adjoining thereto.

14. Every sheriff himself, or by his lawful officers, or deputies, shall from time to time execute all writs and other process to him legally issued and directed within his county, or upon any bay, river or creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the governor for the time being, for the better support of the government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs by action of debt or information in any county court of this commonwealth; and such sheriff shall be further liable to the action of the party grieved at common law, for his or her damages; and for every false return, the sheriff shall forfeit and pay sixty dollars, to be recovered, divided and applied in the same manner as last mentioned; and shall also in like manner, be liable to the party grieved for damages.

Penalty for a false return thereof.

When the sheriff may return that the defendant is not found.

15. No sheriff shall return, upon any writ to him directed, that the defendant is not found in his bailiwick, unless such sheriff or other officer shall have actually been at the dwelling house or place of abode of such defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any defendant shall be a known inhabitant of any county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county; and thereupon such process issued from any county court clerk's office as to such defendant, shall abate and be dismissed.

No process to be served on Sundays; Nor on persons attending musters of militia, elections, or as witnesses;

16. *Provided always*, That it shall not be lawful for any sheriff or other officer, to execute any writ or process upon the Lord's day, commonly called Sunday, nor upon any person attending his duty at any muster of militia, or any election of members of the state legislature, or of that of the United States, or at any election for the appointment of electors to vote for a president of the United States; nor on any person attending as a witness, being duly summoned, at or on any order of survey issued from any court, or as a witness attending on arbitration made by order of court, or attending commissioners appointed to take depositions in the case of contested elections; and that all process so executed, shall be illegal and void, unless the same be issued against any person or persons for treason, felony, riot, breach of the peace, or upon any escape out of prison or custody, and such process shall and may be executed at any time or place.

Except in cases of treason, felony, riot, breach of the peace, and escape.

Bonds taken by sheriffs from prisoners, except in cases directed by law, void.

17. It shall not be lawful for any sheriff or his officer or deputy, to take any obligation of, or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself as sheriff, and dischargeable upon the pri-





sheriff's appearance, and rendering himself at the day and place required in the writ, whereupon he was or shall be taken or arrested: And every obligation by any sheriff taken in other manner or form, by colour of his office, shall be null and void; except in any special case, any other obligation is or shall be by law particularly and expressly directed.

18. No sheriff of any county within this commonwealth, shall demand or take any other greater fee or reward whatsoever, nor shall have any allowance, reward, or satisfaction from the public, for any services or business by him done, other than the allowance given and provided by law; all other services shall be by him done *ex officio*.

Sheriffs not to take more than the legal fees.

19. Every sheriff shall collect and receive the taxes due to the commonwealth, and shall also collect all levies, fines, forfeitures and amercements, and all officers' fees, (and poor rates when appointed by the overseers of the poor to collect the same,) and shall account for and pay the same in the manner directed by law.

Sheriffs to collect all levies, fines, &c. and poor rates, when appointed by the overseers of the poor.

20. No sheriff or other officer, nor any collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or officers' fees, shall at any time seize or distrain the slave or slaves of any person or persons, if other sufficient distress can be had, nor shall make or take unreasonable seizures or distresses, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the plaintiff shall recover his full costs, although the damages given may not exceed seven dollars.

Not to distrain slaves where there is other sufficient distress, or to make unreasonable distresses.

21. Where any person or persons accused of treason, felony, or other capital crime, shall be committed to any county jail, and the sheriff shall have cause to suspect such person will attempt to escape, such sheriff is hereby empowered and required to impress sufficient guard for securing such prisoner or prisoners, so long as he, she, or they continue in the said jail, to be paid by the public after the rate of fifty cents for each man per day, in the same manner as the charges of summoning and holding courts, for the examination of criminals.

May impress guards for securing criminals in jails.

22. And for removing all controversies, touching the manner of turning over prisoners upon a sheriff's quitting his office: *Be it further enacted*, That the delivery of prisoners by indenture between the old sheriff and the new, or the entering upon record in the county court, the names of the several prisoners and causes of their commitment, delivered over to the new sheriff, shall be sufficient to discharge the late sheriff from all suits or actions for any escape that shall happen afterwards.

Method of turning over prisoners by the sheriff to his successor.

23. Every sheriff shall have and may retain for all taxes, fines, forfeitures and amercements, and all officers' fees, except clerks' and surveyors' fees and levies, an allowance of five per centum for collecting and paying the same, and no more.

Sheriff's commission for collecting taxes, fines, &c.

24. No sheriff shall be obliged to go out of his county to pay money levied by execution, or to give notice to creditors at whose suit any person may be in custody of such sheriff.

Sheriff shall not be obliged to go out of his county to pay money levied by execution, &c.

25. The high sheriff of a county shall have the same remedy and judgment against his under sheriff or deputy, or the securities of such under sheriff or deputy, failing to pay the money by him received on any execution to the high sheriff, or the party to whom the same is payable, his agent or attorney, or suffering any person in his custody to escape, as the creditor at whose suit the writ issued

Sheriff's remedy against his deputy in certain cases.



may have against the high sheriff, or such under sheriff or deputy, or the securities of such under sheriff or deputy.

Deputy sheriff to endorse on executions the time when received, and to subscribe his own and his principal's names to returns on process.

26. And to prevent disputes between sheriffs and their several deputies, which of them may have acted in serving of executions or process: *Be it further enacted*, That when any under sheriff hath served any writ, execution, attachment, or other process whatsoever, he shall endorse on the back of such writ, the day of the month, he or they shall have served the same, and subscribe his name, as well as that of his principal, to the return of such writ or other process; and every under sheriff failing herein, shall be liable to the same penalty as is by law inflicted on the sheriff for a false return, and to be recovered and appropriated in the same manner.

Sheriff's remedy against his deputy failing to account for public taxes received by him.

27. Where the sheriff of any county heretofore hath, or hereafter shall appoint any person to be his under sheriff, to collect the taxes required by law in his county, and such under sheriff shall neglect, or refuse to account for, and pay such taxes, to the sheriff under whom he hath been or shall be appointed, or to the treasurer at the time appointed for paying the same, it shall and may be lawful for the district court, or court of the county whereof he hath been, now is, or shall be sheriff, upon motion to them made by such sheriff, his executors or administrators, to give judgment against such under sheriff, his securities, their heirs, executors, or administrators, for all the money wherewith he shall be chargeable, and five per centum damages, and five per centum interest thereon, and to award execution for the same; provided such under sheriff and his securities, have ten days previous notice of such motion: *Provided also*, That no execution shall be issued against an under sheriff and his securities, for the five per centum damages, and interest thereon, unless judgment shall have been obtained against the high sheriff for the same.

Proviso.

Where sheriffs' lands would have been bound for public debts, they shall be bound in like manner for reimbursement of their securities paying such debts.

28. Wheresoever the lands of any sheriff or collector would have been bound for any debt due to the commonwealth, they shall be bound in like manner, to the security or securities who may have paid the whole or a part of such debt, and it shall be lawful for the general court or district courts to award a like execution against the said lands, on the motion of such securities, to that which would have been issued on behalf of the commonwealth, provided that ten days previous notice shall be given to the principal, his heir or devisee, as the case may be.

Repealing clause.

Proviso.

29. All and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed: *Provided*, That all rights and remedies given by such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.

Commencement.

30. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 20.—An ACT concerning coroners.

(Passed November 29, 1792.)

Coroners, how to be nominated and commissioned.

1. *Be it enacted by the general assembly*, That from time to time hereafter, as often as there shall be a vacancy in the office of coroner, in any county or corporation within this commonwealth, the court of such county or corporation shall, at their next session thereafter, nominate two fit and discreet persons, residing within such county or corporation, to be coroner thereof; one of which persons, being approved by the governor, with the advice of the





council, shall be commissioned by the governor to execute the office of coroner within such county or corporation during good behaviour.

2. If any court shall fail to make such nomination at the time prescribed by this act, every justice of such court shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt in any court of record within this commonwealth; one half to the use of the informer, the other half to the use of the commonwealth; or by information at the suit of the auditor, in the general court, in which case the whole penalty shall be to the use of the commonwealth.

Penalty on the court failing to make the nomination.

3. *Provided always*, That nothing in this act contained, shall be construed to restrain or prevent the county or corporation courts from nominating any person or persons to the governor, to be coroner within such county or corporation, whensoever in their opinion a necessity may arise of having more than one coroner in such county or corporation.

Several coroners may be appointed in each county.

4. *Provided also*, That no coroner appointed for a county or corporate town, shall execute any of the duties of his office except within such town or county, for which he shall have been so appointed.

But to act only within the limits of their respective counties.

5. Every coroner so commissioned, before he enters upon the duties of his office, shall, in open court, take the oath of fidelity to the commonwealth, and the following oath of office, viz: "*I, A. B. do swear, that I will well and truly serve the commonwealth, in the office of a coroner, in the county or corporation of \_\_\_\_\_, and therein will diligently and truly do all things appertaining to my said office, according to the best of my knowledge and power, both for the common weal and the good of the inhabitants within the said county or corporation, taking such fees only as are by law allowed. So help me God.*" And before he shall be at liberty to serve any writ of execution, shall moreover, in the court of his county or corporation, enter into bond with good and sufficient security, payable to the governor for the time being, and his successors, for the use of the commonwealth, in the penalty of ten thousand dollars, with condition for the true and faithful execution of his office. And if any coroner shall presume to serve any such writ of execution without first taking the said oaths, and entering into bond as by this act is directed, he shall forfeit and pay the sum of fifteen hundred dollars; one half to the use of the informer, the other half to the use of the commonwealth; and shall moreover be liable to the same damages, judgment, and execution at the suit of the party grieved, in case of any misdemeanor or breach of duty in the execution thereof, as he would have been subjected to in the like case, after having been duly qualified to execute his said office.

Oaths to be administered to them.

Not to serve executions until they have given bond and security.

Under a penalty.

6. Upon request made to a coroner to come and enquire upon the view of any person slain, drowned, or otherwise by misadventure, or suddenly dead, or wounded, or where houses are broken, he shall forthwith go to the place where any be slain, drowned, or otherwise by misadventure, or suddenly dead, or where any house is broken, and shall forthwith issue his precept to the sheriff, sergeant of a corporation, or constable of the county or corporation, directing him to summon at least twelve of the most intelligent and respectable freeholders of the vicinage, or county or corporation, to appear before him at the same place with all convenient speed.

Inquest to be taken by the coroner, where any person is found wounded or dead, or where any house is broken.





7. And when the said freeholders come to such place, the coroner, upon the oath of twelve of them, shall enquire in this manner, to wit: If they know where the person was slain, whether it were in any house, field, bed, tavern, or company, and who were there: Likewise it is to be enquired, who were guilty either of the act or of the force, and who were present, either men or women, and of what age soever they be, (if they can speak, or have any discretion.)

Persons found guilty by the inquisition, to be committed until the examining court.

Coroner to have the same power as a justice to summon such court.

Duty of the jury when any person is found slain.

Coroner to keep in his hands estate of the murderer until he is taken.

To commit to writing the evidence given to the jury.

And to take the recognizances of the witnesses to appear at the examining court.

Where persons are drowned or suddenly dead.

After inquest the dead body to be buried.  
Person dangerously wounding another to be immediately arrested.

8. And how many soever be found guilty by inquisition in any of the manners aforesaid, they shall be taken and delivered to the sheriff or serjeant, and shall be committed to the jail, until the next court to be holden within the county or corporation for the examination of such offender, and the coroner shall have the like power and authority to summon such court, and shall proceed in like manner as a justice of the peace before whom such criminal might have been charged with such offence, could or ought to do by law.

9. If any person is found slain, first it is to be enquired whether such person were slain in the place where found or not; and if such person were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, and ascertain in what manner such body was brought there. It shall be enquired also if the dead person were known, or else a stranger, and where such person lay the night before.

10. And if any person be found guilty of the murder, the coroner shall immediately go into his house, and shall enquire what estate both real and personal he hath, and after such enquiry, the said coroner shall cause all the estate to be valued, and keep the same in his hands, until the person found guilty by the inquest be taken or surrender himself.

11. And every coroner upon any inquisition found before him, whereby any person or persons shall be indicted for murder or manslaughter, or as accessory or accessaries to the same, before the murder or manslaughter committed, shall put in writing the effect of the evidence given to the jury before him, being material; and the said coroner shall have authority by this act to bind all such by recognizance or obligation, as do declare any thing material to prove the said murder or manslaughter, offences or felonies, or to be accessory or accessaries to the same, as is aforesaid, to appear at the court to be holden within the county, city or borough, for the examination of such offender or offenders, then and there to give evidence against the party so indicted, at the time of his trial; and shall certify as well the same evidence as such bond or bonds in writing as he shall take, together with the inquisition or indictment before him taken and found, at or before the time of his said trial thereof to be had or made, to such court.

12. In like manner it is to be enquired respecting them that be drowned, or suddenly dead, what marks of violence appear on their bodies; whereupon they shall proceed in the form aforesaid.

13. And immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried.

14. If any person be dangerously wounded, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the defendant shall be kept; and if he recover health, he shall be attached by pledges according to the danger of the wound.



15. Also all wounds ought to be viewed, the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things must be enrolled in the roll of the coroners.

Wounds to be viewed and described.

16. Moreover, if any be accused of any act done, as principal, they that be accused as accessory, shall be attached also, and safely kept in custody, until the principal be attainted or delivered.

Accessories to be apprehended and confined.

17. If any be suspected of the death of any man, he shall be taken and imprisoned, as before is said.

And any suspected of murder.

18. In like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not, shall be amerced at the discretion of a jury.

Hue to be levied of murders, burglaries, &c.

19. If any be found guilty by inquisition taken in manner directed by this act, and be not present, nor in custody, the coroner shall straight issue his warrant to apprehend the person so found guilty, and the accessories, if any; and the person accused, if apprehended, shall straightway be carried before some justice of the county or corporation where the offence was committed, to be dealt with as the laws direct.

Coroner to issue his warrant to apprehend persons found guilty of murder by inquisition.

20. If any coroner be remiss, and make not inquisition upon the view of the body slain or murdered, or shall not endeavor to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this act, he shall for every such offence, forfeit the sum of one hundred dollars; to be recovered by action of debt, in any court of record of this commonwealth, one half thereof to the use of the informer, the other half to the use of the commonwealth.

Penalty on a coroner for neglecting his duty.

21. In every case when by reason of a just exception to the sheriff of any county, or serjeant of a corporation, any writ of what nature soever the same may be, shall be delivered to the coroner of such county or corporation to execute, such coroner shall do and perform all things by virtue of such writ, which the sheriff or serjeant himself, might or ought to have done, had there been no just exception against him according to the nature of the case; and in case of any neglect or breach of his duty, such coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment and execution, as sheriffs or serjeants are subject to in like cases.

Process, when to be served by the coroner.

Coroners subject to the like penalties and fines as sheriffs.

22. And upon every execution issued against a coroner, upon any judgment against him obtained for breach or neglect of his duty, the clerk shall endorse, that "no security is to be taken."

No security to be taken on executions against them for neglect of duty

23. All and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause

24. This act shall commence and be in force from and after the passing thereof.

Commencement.

#### CHAP. 21.—An ACT concerning escheators.

(Passed November 30, 1792.)

1. *Be it enacted by the general assembly,* That there shall be one escheator commissioned in every county by the governor, on recommendation from the court of the same county, who shall execute his office in proper person and not by deputy, and shall before the court of the county be bound in the penalty of three thousand dollars.

Escheators, how to be appointed.

Not to act by deputy. To give bond and security.





lars, with security to be approved by the same court, duly to perform the duties of his said office.

When and how they are to take their inquests.

2. The said escheator shall sit in convenient and open places, and shall take his inquests of fit persons who shall be returned and impannelled by the sheriff of the county, and shall suffer every person to give evidence openly, in their presence, to such inquests; and the said inquisition so taken, shall be by indentures to be made between the said escheator and them of the inquest, whereof the counterpart, sealed by the escheator, shall remain in the possession of the first person that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded; and the other part, sealed by the jurors, shall by the escheator be sent into the court of the district in which the land lieth, within one month after the inquest taken.

Mode of proceeding where any man claims the land.

3. And if it be found for the commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the commonwealth the yearly value of the lands, if the right be discussed for the commonwealth.

Lands seized by the commonwealth not to be let to farm to any but the person claiming them.

4. No lands nor tenements seized into the hands of this commonwealth, upon such inquest taken before escheators, shall be in any wise granted, nor to farm let to any if it be not to him or them which claim as is aforesaid, till the same inquests and verdicts be fully returned into the district court, nor within six months after the same return, but shall entirely and continually remain in the hands of the escheators, who shall answer to the commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction.

When and how they shall be sold, if they are not claimed, or being claimed, the right be found in the commonwealth.

5. If no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the commonwealth, the clerk of the district court shall within one month thereafter, certify to the escheator of the county where the lands lie, that no claim hath been made, or that being made it hath been discussed for the commonwealth; which escheator shall thereupon proceed to make sale of the lands for the benefit of the commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the register of the land office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by law directed, in the case of unappropriated lands.

Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be or be not found in the inquisitions.

6. Where any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit apprender of any estate of freehold, or for years, or otherwise, out of such lands or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit apprender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit apprender had been found in such inquisition.



7. Also, if one person or more be found heir by office or inquisition in one county, and another person be found heir to the same person in another county; or if any person be untruly found lunatic, idiot, or dead, the person grieved by such office or inquisition may have his traverse or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein as in other cases of traverse upon untrue inquisition found.

Where a traverse or *monstrans de droit* may be had to an inquisition.

8. All and every act and acts, clauses and parts of acts containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

9. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 22.—An ACT prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue.

(Passed December 13, 1792.)

1. Every county and corporation court within this commonwealth shall annually, in the months of October or September, appoint discreet and reputable persons, to be commissioners for the purposes herein after mentioned.

Commissioners of the revenue to be appointed.

2. In those counties where more commissioners than one are directed to be appointed, the said courts shall also distinctly lay off and ascertain the bounds of the district allotted to each commissioner.

Where there are several in a county, separate districts to be assigned to each.

3. In each of the counties of Fauquier and Loudoun, there shall be three commissioners; in each of the counties of Culpeper, Accomack, Albemarle, Amherst, Augusta, Bedford, Berkeley, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Charlotte, Chesterfield, Dinwiddie, Essex, Fairfax, Franklin, Frederick, Goochland, Greenbrier, Halifax, Hampshire, Hanover, Hardy, Harrison, Henrico, Isle of Wight, King & Queen, Louisa, Lunenburg, Mecklenburg, Monongalia, Montgomery, Nansemond, Norfolk, Northumberland, Ohio, Orange, Pendleton, Pittsylvania, Prince Edward, Prince William, Princess Anne, Rockbridge, Rockingham, Russell, Shenandoah, Southampton, Spottsylvania, Stafford, Sussex, Washington and Wythe, there shall be appointed two commissioners; and in each of the counties not herein before mentioned, and in each of the cities of Williamsburg and Richmond, and the towns of Petersburg, Alexandria, Fredericksburg and Winchester, and borough of Norfolk, there shall be appointed one commissioner.

Three to be appointed in certain counties. Two in certain other counties.

4. *Provided*, That no member of either house of assembly, persons holding any office in civil government receiving stated salaries, practising attornies or physicians, clerks of courts, inspectors, ordinary keepers, sheriffs, surveyors or their deputies, or persons that have been in the office of sheriff, deputy sheriff, or collector of public taxes in their county, shall be capable of acting or serving as commissioner, unless it shall appear by sufficient testimony, other than the party's own oath, that such sheriff or collector hath completed his collection, fully paid the amount thereof into the treasury, and finally closed every account relative thereto.

And one in every other county, and in certain cities and towns.

Who shall be incapable of holding the office.

5. The clerk of the court shall certify to every commissioner his appointment without delay; and thereupon each commissioner shall repair to some acting magistrate of the county, and take the following

Clerks of the courts to certify to the commissioners their appointment.





Their oath.

ing oath, or affirmation, to wit: "*I, A. B. do swear, (or solemnly, sincerely, and truly, declare and affirm) that, as commissioner of the revenue for county, city, town, or borough of Norfolk, (as the case may be) I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection, or partiality. And that I will do equal right and justice according to the best of my knowledge, in every case in which I shall act as commissioner. So help me God.*" A certificate of which oath, or affirmation, shall be given the commissioner by the magistrate administering it, and the magistrate shall also certify the same to the next court held for his county, to be recorded.

To receive and keep the books containing the accounts of the taxes on lands.

6. Every commissioner thus qualified, shall perform the following duties within his district: He shall in the first place apply to the preceding commissioner, or other person, who shall have possession of it, for the book containing the owners' names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his district, and the tax payable thereon; which book the said commissioner shall keep so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding commissioner for the district. And every commissioner shall in the said book note from time to time, all such alterations, alienations, divisions and additions, as may happen within his district, and shall also perform all the duties of the commissioners of the land tax as herein prescribed.

To be furnished with lists of conveyances and partitions;

7. The clerk of the general court, and the clerks of the several district courts, on or before the first day of May, annually, are hereby directed to make return, and the clerks of the county and corporation courts to deliver to the said commissioners, a list of conveyances or partitions recorded in their respective courts within the preceding year, certifying the quantity and situation of the lands so conveyed; and the register of the land office, on or before the first day of April, annually, shall in like manner transmit a list of all grants issued within the year preceding, to be by them valued at a price equal to other lands within their respective districts, similar in soil and situation, and such commissioner shall give a credit to the person disposing of the same, and charge the purchaser or receiver with the tax payable thereon; and in like manner in cases where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the said commissioners shall, and they are hereby required to value the same and charge the owner thereof with the tax in manner aforesaid.

And of patents.

To value lands therein mentioned.

Their duty in case of alienations or partitions, and where lands have not been heretofore valued.

To take the lists of taxable property.

8. The said commissioners shall severally on the tenth day of March, annually, begin, and continue, proceeding without delay through their respective districts and call upon every person subject to taxation, or having property in his or her possession or care, on which any tax is imposed, for a written list thereof, which list being corrected, if necessary, and distinctly read over by the commissioner to the person delivering the same, he or she shall then make oath or affirmation that such list contains a just and true account of all persons and of every species of property in his or her possession or care, within the district (land only excepted) subject to taxation on the ninth day of March, then next preceding, and that no contract, change or removal whatever of property had been





made or entered into, or any other method devised, practised or used, in order to evade the payment of taxes; which oath or affirmation the commissioner is hereby empowered and directed to administer.

9. And whereas frequent abuses have been practised by the owners of billiard tables by taking them down, so as to defeat the intention of this act: *Be it enacted*, That the commissioner shall return all such which to his knowledge have been set up or used within his county at any time within the year, although the same may not be returned by the owner thereof, and such tables shall at all times be liable for the tax.

Rule respecting  
billiard tables.

10. Each of the said commissioners shall after collecting the lists of property from the inhabitants of his district, in manner before mentioned, make four alphabetical general lists therefrom, shewing in columns, according to the form hereto annexed, the date when each list was received, the persons chargeable with the tax or taxes, distinguishing those also subject only to county levies and poor rates, and the number or quantity of every species of property subject to tax, which lists shall be kept and delivered in the following manner: Each commissioner shall retain one of those lists in his own possession, so long as he continues in office, afterwards to be delivered to his successor, as in the case of the land tax books, and one other of the lists, together with the lists taken from the individuals in his district, shall be returned to the clerk, who shall examine the same, and if found to be erroneous, either in addition or otherwise, correct the same together with the others, and then certify them to be true copies. The lists in the clerk's office shall serve for laying the county levy, and fixing the poor rates, and be subject to the inspection or examination of every person who may choose to examine the same, provided they be not taken out of the clerk's possession: and copies may be had at the charge of the person or persons desiring the same. One other of the said lists after being certified by the clerk, shall be delivered by the commissioner to the high sheriff of the county, as his guide to collect the taxes, and the remaining fourth list being also certified by the clerk, shall be transmitted by the commissioner to the auditor's office, there to be minutely examined, and to be produced by the auditor, and admitted as evidence by the general court, for the amount of taxes charged the sheriff. All which lists it is hereby declared, to be the duty of the several commissioners to have delivered to the several persons or officers, on or before the last day of May, annually. And the said commissioners shall take a receipt or acknowledgment in writing of the delivery of such lists.

Commissioners to  
make four general  
alphabetical lists  
of taxable prop-  
erty.

To whom such co-  
pies shall be deli-  
vered.

And when.

11. The said commissioners shall also at the time of delivering lists of taxable property herein before directed, deliver to the clerk of his county, and at the auditor's office, a fair and correct copy of the state of the land tax, noting the alterations, alienations, divisions and additions that may have taken place in the preceding year, within his district, to enable the clerk to adjust his book of the land tax, and the auditor to adjust the equalizers' books; and the book containing the land tax, together with the annual returns of the several commissioners lodged in the clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property; and the said commissioners shall also deliver to the sheriff an exact list of taxes due from all and every per-

To deliver fair co-  
pies of the state of  
the land tax to the  
clerk of the court,  
the sheriff and the  
auditor.



son or persons for land within his district, to enable the sheriff to proceed in his collection.

Penalty on person refusing to serve as a commissioner.

12. In case any person appointed to the office of commissioner under this act, shall refuse to serve, not having a reasonable excuse in the opinion of the court of the county, he shall for such refusal forfeit and pay the sum of one hundred dollars.

None compellable to serve more than one year.  
Vacancies how to be supplied.

13. No commissioner after having served one year, shall be again compelled to serve.

14. Upon the refusal to act, notice of resignation, death or inability of any commissioner, it shall be the duty of the court of such county immediately to appoint a successor, and the clerk is directed to call for all papers in the preceding commissioner's hands, or his legal representatives; and in case they be lost, shall be furnished on application as herein before directed.

Allowances to the clerks of courts.

15. The court of each county, city and corporation, shall make such allowance to the clerk for his services under this act, as they shall think reasonable, which shall be levied on the tithables within the same.

To the commissioners.

16. The commissioners of the revenue shall before the first day of August in every year, return to the courts of their respective counties or corporations, a correct account of their services, and the said courts are hereby respectively authorized and required to ascertain the time in which the said services might have been reasonably performed, and shall certify the same to the auditor of public accounts in manner following: "*This day produced an account of his services as a commissioner of the revenue, and the court have considered that days were requisite for the said commissioner to perform the services aforesaid;*" and in lieu of the allowance heretofore made, the said commissioners shall be paid by the treasurer of this commonwealth, on warrant from the auditor of public accounts, one dollar per day, agreeably to the time so ascertained by the court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more: *Provided always*, That no commissioner or commissioners shall be allowed a sum or sums exceeding the revenue tax of his or their respective counties or corporations.

For entries of alienations or alterations.  
Allowances to commissioners not to exceed the taxes of the county.  
May be removed from office by the court of the county.

17. On complaint made to any county or corporation court, that a commissioner neglects or abuses the trust hereby vested in him, it shall be lawful for such court to order a summons to issue, requiring the said commissioner to appear before them at their next succeeding court, which being served on him, or a copy thereof left at his usual place of abode, ten days at least before the return day thereof, the court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that the said complaint is well founded.

Penalty for delivering false lists of property, or refusing to give lists on oath.

18. If any person shall give or deliver to a commissioner, a false or fraudulent list of persons or property, subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the commissioner, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the commissioner shall proceed to list such person's property, agreeably to the best information he can procure; and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the sheriff as in other cases; and in the case of an imperfect, false or fraudulent list, the person giving the same shall be subject to pay a fine

How the lists are to be taken, and the property taxed in such cases.





of fifteen dollars, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the county court by the following mode of proceeding, and applied as herein after directed.

19. The commissioner shall give information thereof personally, or if unable to attend, in writing, under his hand, to the next court held for his county, which court shall forthwith direct the clerk to issue a summons, requiring the party to appear at the next court to be held for the county, to shew cause, if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of taxables; and the person or persons, upon being served therewith by the sheriff, and appearing, shall immediately plead to issue, and the matter thereof shall be enquired into by a jury, or the court, at the defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the court, who, unless good cause shewn at the next succeeding court, for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the sheriff, for collection, and to the auditor's office; the amount of which fine, after deducting thereout such allowance as the court may think reasonable to make the commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the county levy; and the triple tax shall be charged to the sheriff, and accounted for in like manner as the other taxes.

Mode of proceeding against the delinquents.

20. The clerk of the court shall set up at the door of his court-house, a copy of the proceedings in such cases, on the succeeding court day.

Copy of the proceedings to be set up at the court-house door.

21. And for preventing frauds or impositions upon commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false or fraudulent list being given a commissioner, shall give information thereof, either to a commissioner, or to the county court, in like manner as the commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the commissioner gave information; and the person informing shall be entitled to, and receive one-half of the fine imposed on the offender or offenders, to his own use, and the other half to be applied towards lessening the county levy.

Every person knowing any false list to be delivered, to give information to the commissioner or the court.

22. The clerk of every county court shall transmit to the governor, a fair and attested copy of all proceedings had at his court, in pursuance of this act, immediately after every court, noting therein the names of the sitting magistrates; which attested copy shall be admitted as proof on any motion in the general court, by the auditor, for the recovery of any fine imposed by this act.

Copy of the proceedings of the court under this act to be transmitted to the governor.

23. The clerk, justices or commissioners, or their legal representatives, failing to perform any one of the duties imposed on them respectively by this act, shall be subject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the sessions in the general court, at the instance of the auditor; notice of such motion being previously given in the same manner as to delinquent sheriffs.

And to be admitted as evidence on the auditor's motions for fines. Penalty on the clerks, justices or commissioners, for neglect of duty.

24. In case any person should be absent from his or her place of residence at the time the commissioner calls to receive the list, and it should appear to the commissioner, that such absence was not intentional or done with a view of avoiding the delivery of such list, it shall be lawful for the commissioner to require the attendance of such absent person, with his or her list, at any time and place within

How the lists are to be taken when the persons chargeable are absent when the commissioners call to receive them.



the said district, provided such person tenders his or her list to the commissioner, and makes oath to the justness of it, on or before the twenty-fifth day of May, annually; and in case of failure, the commissioner shall proceed in like manner as is before directed in cases of refusal to give in lists; and the court shall determine upon the circumstances of the case, whether to inflict or remit the fine and triple taxes.

Lists of insolvents to be entered in the commissioners' books. And the sheriff credited therefor.

Taxes due from persons removing from one county to another, how to be collected.

Account of additional taxes and fines to be sent to the auditor.

Commissioners to state a general account of taxes with the sheriff.

To return to the courts lists of their own property.

25. A list of all the insolvents returned by the sheriff to the court, shall be transmitted by the clerk to the commissioners of the revenue, to be entered in their book of taxes for that year, and no sheriff shall have credit for such insolvents in his account with the public, unless certified by the said commissioners to have been allowed by the court; and the said commissioner shall moreover transmit with the said lists of insolvents, an account of the tax of any person who may have removed out of the county, together with the name of the county to which they have removed; which account the auditor is hereby directed to transmit to the commissioners of the revenue of the county to which they have removed, to be charged on their books, and collected by the sheriff. An account of all fines or additional taxes imposed by virtue of this act, shall be by the said commissioners transmitted to the auditor's office, before the first of August annually. And the said commissioners shall state in their book of taxes, a general account with the sheriff, for all taxes, fines and additional taxes in their county, crediting him for all insolvents, and also for all payments made by the said sheriff to the public, receipts for which shall be by the said sheriff transmitted to the said commissioners within twenty days, after obtaining the same, a copy of which account shall be by the said commissioners transmitted to the auditor's office, before the first day of May, annually.

26. The commissioners shall severally return on oath to their respective courts, a list of all their own taxable property, and shall enter the same in the several lists to be returned to the different persons and public officers, and on failing to comply herein, shall be liable to be proceeded against, in the same manner, and subject to the same penalties as in case of any other neglect.

Form of keeping the book containing the land tax by the commissioner.

Form of the book containing the taxes on lands.

*List of the land tax within the district of A. B. commissioner, in the county of C.*

Persons' names owning land.	Number of lots.	Yearly rent of lots.	Amount of tax on lots at , in .	Quantity of land.	Rate of land per acre.	Total amount of value of land, exclusive of lots.	Amount of tax on lands at per	Total amount of tax on lots and lands.
Sum total,								











person or persons so appointed, after having given bond and security to the executors or administrators of the said sheriff, to be approved of by the court for the faithful performance of the duties of the office, shall have the same power in all respects, for collecting such arrears, as the high sheriff would have had. But the acting executors or administrators of such high sheriff, if any such there be, at the time of such appointment, shall be summoned by order of the said court, to shew cause, if any they can, against the person whom the said court shall nominate.

31. The person or persons so appointed, shall in all respects be subject to the same penalties, for any neglect of duty, or failing to account for and pay to the person or persons authorized to receive the money by him or them so collected, and may be proceeded against by such executors or administrators, in the same manner as deputy sheriffs are liable to, and may be proceeded against by their principals.

What may be distrained for taxes, levies, &c.

32. In case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the sheriff or collector shall have power to distrain the slaves, goods or chattels which shall be found upon the lands, or in possession of the person so indebted or failing, notwithstanding such slaves, goods or chattels, shall be comprised in any deed or mortgage.

When goods distrained may be sold.

33. If the owner thereof shall not pay such tax, levy, fine, forfeiture or amercement within five days after such distress, such sheriff or collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money; which sale shall be good and effectual in law, against all persons whatsoever.

How the taxes on lands are to be collected when the sheriff cannot find effects on the same to pay the tax thereon.

34. The sheriff or collector of the taxes within this commonwealth, shall at the time he returns a list of other insolvents, return a list of the lands within his county, or corporation, where he cannot find effects within the same, belonging to the owner or tenant thereof, sufficient to pay and satisfy the tax; and if the court shall be satisfied of the truth thereof, they shall admit the sheriff or collector to make oath thereto, and direct the same to be certified to the auditor of public accounts, together with the names of the owners of each tract of land, and the place of his or her abode, where the court can obtain such information. The auditor shall credit the same in account for the land tax, with such sheriff or collector. And where it shall appear to the auditor from the certificates of the county courts, or where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other county of this commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable, to the sheriff or collector of the county in which such person may reside, or have slaves or personal property, (as the case may be) and shall debit such sheriff or collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor, in like manner as for other taxes of his county. A list of these insolvents, with the amount of the tax due from them respectively, shall be furnished by the clerk of the court to the collector of the tax for the succeeding year, and he shall transmit a copy thereof to the auditor of public accounts, who shall debit the sheriff or col-



lector therewith; and such sheriff or collector shall distrain and account for the same, in like manner as for other taxes, and in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the treasurer shall cause to be inserted in the Virginia gazette, for three weeks successively, the names of such delinquents, with the quantity of land, the situation thereof, and the taxes due thereon.

35. In case the tax on any tract of land within this commonwealth, shall not be paid for the space of three years, the right to such lands shall be lost, forfeited and vested in the commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed by an act, intituled, "*an act for reducing into one, the several acts concerning the land office; ascertaining the terms and manner of granting waste and unappropriated lands; for settling the titles and bounds of lands; directing the mode of processioning, and prescribing the duty of surveyors.*"

When lands shall be forfeited for the nonpayment of taxes.

How a title thereto may be acquired.

36. *Provided always*, That nothing herein contained shall affect the right of infants, *femes covert*, or persons of unsound mind, who shall be allowed three years to save the same from forfeiture, after such disability be removed.

Saving the rights of infants, *femes covert*, or lunatics.

37. And where any tenant shall be distrained for the taxes due, from the proprietor of the land, he shall have credit for the same against such proprietor out of the rents he may owe him; but this act shall not be construed to destroy or impair any contract, by which the tenant may be bound to pay the said land tax, or any part thereof.

Tenant paying the taxes may deduct it out of the rent, unless he is bound to pay it.

38. The clerks of the several courts within this commonwealth, shall, respectively, on or before the first day of April, and first day of October in every year, account for on oath, and pay into the public treasury, all the monies which by law they shall be authorized to receive on public account, after a deduction of five per centum therefrom, as a commission. And in case of fraud herein by any clerk, he shall on conviction thereof be deprived of his office.

When the clerks of courts are to account for and pay taxes collected by them.

39. All and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing herein contained, shall prevent the collection and recovery of any arrearages of taxes due before the commencement of this act, but such arrearages shall be collected, paid, and distrained for, and recovery had against all delinquents, and the damages on failure of payment thereof, shall be the same as if this act had not been made.

Repealing clause.

Proviso.

40. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 23.—An ACT to reduce into one the several acts concerning the auditor and treasurer.

(Passed December 15, 1792.)

1. *Be it enacted by the general assembly*, That there shall be one auditor for public accounts, to be chosen from time to time, as a vacancy may happen, by joint ballot of both houses of assembly, and to continue in office until removed by the joint vote of both the said houses, or by the executive during the recess of the assembly. And where any person so appointed, shall refuse to act, shall resign, or die during the recess of assembly, it shall be lawful for the go-

Auditor, how appointed, qualified, and removable.





vernor, with the advice of the council of state, to appoint some other fit and able person to act in his stead, until the next meeting of the general assembly. The auditor so appointed, shall not be capable of acting until he shall have taken the oath of fidelity to the commonwealth, and also an oath impartially, and honestly to execute the duties of his office; which oath shall be taken before the judge of the high court of chancery, or either of the judges of the general court, and by him shall be certified to his next succeeding court, and entered of record. The auditor now in office by former appointment, is hereby continued therein.

His duty.  
To be assisted by  
as many clerks as  
the executive may  
think necessary.

2. It shall be the duty of the auditor, assisted by so many clerks as the executive may think necessary, to examine, state, settle and audit all accounts, claims or demands whatsoever, against the public, arising under any law or resolution of the general assembly; and to grant to every public claimant, authorized by law to demand the same, a warrant on the treasurer, for the sum due, signed with his own hand and name, and attested in the hand and name of one of his clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The auditor on the last day of September in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of October. There shall also be an account stated against the treasurer of the commonwealth.

To proceed against  
public debtors.

3. It shall be the duty of the auditor, to call upon and proceed against all public debtors, for the balances due to the public.

In what manner.

4. It shall and may be lawful for the auditor on behalf of the commonwealth, to move for judgments on any day during the sitting of the general court, against any person or persons indebted to the public, and against any person or persons indebted to the public by duty bonds, in the general court or county court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper officer; the charges of giving which notice, being first paid by the public, shall be recovered of the person against whom such execution issued, in the same court and in the same manner, as debts due to the public are allowed to be recovered; and on such executions, the clerk shall endorse "no security to be taken."

To give bond and  
security for the  
faithful discharge  
of his office.

5. Any person hereafter appointed auditor, shall give bond with such security as shall be approved by the governor, with the advice of council, in the sum of thirty thousand dollars, payable to the said governor, or his successors, in trust, for the use of the commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the general court.

Persons aggrieved  
by his disallowing  
or abating any  
claim, how re-  
dressed.

6. Where the auditor acting according to his direction and judgment, shall disallow, or abate any article of demand against the commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the high court of chancery, or the district court, holden at the city of Richmond, according to the nature of his case, for redress, and such court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the commonwealth, any right in law or equity.



7. The chief clerk of the auditor, shall, in case of the sickness of the auditor, perform the duties of his office. The chief clerk to act in case of sickness of the auditor.

8. The public treasurer may continue in office without re-election, until the end of the session of general assembly, next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to act, he shall give bond to the governor, with securities, to be approved by the council of state, in the penalty of one million of dollars, payable to the commonwealth, with condition, that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the commonwealth, before some court of record, or before a judge or justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such court. Treasurer, his continuance in office. How qualified.

9. When the office shall become vacant, during the recess of the general assembly, the governor, with the advice of the council of state, shall appoint a successor to act, until such time as he, or another shall be legally elected. Vacancy during the recess of the assembly, to be supplied by two executive.

10. Upon a motion made to the general court, by a succeeding treasurer, on behalf of the commonwealth, whereof more than ten days notice in writing shall have been given to the obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by the payment of so much, as a jury, to be impanelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the defendants make default, shall find to be due by breach of the condition aforesaid, with costs. How the treasurer in office shall proceed against his predecessor for the balance which may be due from him to the public.

11. The treasurer, in books provided at the public expense, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of acts and votes of the general assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the general assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied to the use of the commonwealth, but shall thereby be rendered incapable of any office of public trust. How he shall keep his accounts.

12. The treasurer shall be allowed as many clerks as the executive shall judge necessary. Penalty for misapplying public money.

13. It shall not be lawful for the treasurer to pay or receive any money on account of the public, but on warrant or certificate from the auditor, unless in cases where any future act of assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention, that the claim specified by such act, shall not be audited in the regular course, save only, that the salary of the said auditor, together with the accounts for the expenses of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the treasurer by the governor and council. His clerks. Not to pay or receive money but on warrant or certificate from the auditor. Exception.





The auditor's and treasurer's offices to be under the control of the executive.

14. The executive shall have the control and superintendence of the auditor's and treasurer's offices respectively, as the same are now established by this act, with power to remove the auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of assembly, subject to their approbation. A committee of the executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what changes or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the board, and entered in their proceedings; and thereupon, it shall be lawful for the executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same.

15. All instructions by the executive in pursuance of the powers hereby vested in them, shall be executed; any law to the contrary notwithstanding.

The treasurer to represent the commonwealth in the Patowmac, James river and Dismal swamp canal companies.

16. The treasurer for the time being shall have a right to vote according to the number of shares which this commonwealth holds in Patowmac, James river, and Dismal swamp canal companies, in person, or by proxy, appointed by him, at the meetings of the said companies, and shall receive the proportion of the tolls which shall from time to time become due to this state, from the shares aforesaid.

Repealing clause.

17. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

18. This act shall commence and be in force from and after the passing thereof.

CHAP. 24.—An ACT for reducing into one, the several acts concerning the land-office; ascertaining the terms and manner of granting waste and unappropriated lands; for settling the titles and bounds of lands; directing the mode of processioning, and prescribing the duty of surveyors.

(Passed December 17, 1792.)

Grants of land to issue from the land office.

1. *Be it enacted*, That all grants of lands shall issue from the land office, in manner and form herein after mentioned.

Register, how appointed and qualified.

2. A register of the said land office shall be appointed from time to time by joint ballot of both houses of assembly, who shall give bond with sufficient security to the governor or first magistrate of this commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a deputy and clerks to assist in executing the business of the said office, but shall nevertheless reside there himself.

3. If any vacancy shall happen by the death, resignation, removal, or other legal disability of a register, during the recess of the general assembly, the governor, or first magistrate of the commonwealth, by and with the advice of the council, may appoint some other person, giving bond and security in like manner, to act as register of the said office, until the end of the next session of assembly.

Copies attested by him as good evidence as the originals.

4. All copies of the records, and other papers now being, or which shall hereafter be in the said office, including those which have been removed from the office of the late proprietor of the





Northern Neck, duly attested by such register, shall be as good evidence as the originals would be.

5. *And be it enacted*, That any person may acquire title to so much waste and unappropriated land lying within this commonwealth, as he shall desire to purchase, on paying the consideration of two dollars for every hundred acres; which consideration may be paid in specie, or in auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining a certificate from the auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for; which being delivered to the auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and, upon lodging the same in the land office, the register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand, and the seal of his office, specifying the quantity of land, and the rights upon which it is due, authorizing any surveyor, duly qualified according to law, to lay off and survey the same, and shall regularly enter and record in the books of his office, all such certificates, and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed: *Provided always*, That no warrant shall issue to be located on any lands which may vest in the commonwealth on account of the nonpayment of the taxes thereon, unless the person applying for the same shall pay in consideration thereof at the rate of one hundred dollars for every hundred acres; and, for the better direction of the surveyors, the register shall express in the warrant what sum was paid therefor.

Title to waste lands, how to be acquired.  
Consideration money for waste lands.

Warrants for surveys.

Consideration money for lands forfeited for nonpayment of taxes.

6. *Provided also*, That all unappropriated lands on the bay of Chesapeake, on the sea shore, or on the shores of any river or creek, and the bed of any river or creek in the eastern parts of this commonwealth, which have remained ungranted by the former government, and which have been used as a common to all the good people thereof, shall be, and the same are hereby excepted out of this act; and no grant issued by the register of the land office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in law to pass any estate or interest therein.

Certain lands reserved as a common, and grants thereof declared void.

7. Every person who shall hereafter desire to become a surveyor, shall be nominated by the court of his county, examined, and certified able by the president and professors of William and Mary college, and if of good character, commissioned by the governor, with a reservation in such commission to the said professors, for the use of the college, of one-sixth part of the legal fees that shall be received by such surveyor; for the yearly payment of which, he shall give bond with sufficient security to the president and masters of the said college; he shall hold his office during good behaviour, and before he shall be capable of entering upon the execution of his office, shall before the court of the same county, take an oath, and give bond, with two sufficient securities, to the governor and his successors, in such sum as he, with advice of council, shall have directed, for the faithful execution of his office.

Surveyors, how examined and commissioned.

One-sixth of their fees appropriated to the college of William and Mary.

Tenure of office.  
How qualified.

8. All deputy surveyors shall be recommended by their principals to the court of the county, of which such principal may be sur-

Their deputies, how appointed.



Their power and reward.

Penalty for giving the principal more.

How removable.

Surveyors to reside in the counties wherein they are appointed.

How entries and surveys may be made on the eastern waters, where there is no surveyor.

Surveyors of certain counties not accountable to William and Mary college for the one-sixth of their fees;

But to pay the same to the Randolph academy.

veyor ; the court shall thereupon appoint and direct one or more fit persons to examine into the capacity, ability, and fitness of the person or persons so recommended ; and upon a certificate of such examination, and report of the capacity, ability, and fitness of the person or persons so recommended, the said court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whose conduct, in every respect touching his office, the principal surveyor shall be answerable ; and all deputies so appointed, shall have power and authority to act and do in all things, and to every intent and purpose, as the principal surveyor, except in cases otherwise provided by this act ; and shall thereupon be entitled to one half the fees received for services performed by them respectively, after deducting the proportion thereof due to the college. If any principal surveyor shall fail to nominate a sufficient number of deputies to perform the services of his office in due time, the court of the county shall direct what number he shall nominate ; and in case of failure, shall nominate for him. And if any deputy surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his office, sum of money in gross, or other valuable consideration to his principal, for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such office : *Provided always*, That any deputy surveyor shall be removable from office, at the discretion of his principal.

9. Every surveyor of lands, shall hereafter be resident in the county whereof he is surveyor, during the time he shall continue in office, under the penalty of forfeiting six hundred dollars for every month he shall reside out of the same, unless detained by such business as the court of the county shall judge reasonable ; one moiety shall be to the commonwealth, for the better support of this government and the contingent charges thereof, and the other moiety to the informer.

10. Where any person shall hold a warrant from the land office, or be desirous to make an entry in any county on the eastern waters, for vacant and unappropriated land, and there shall be no surveyor qualified to act in such county, then it shall and may be lawful for such person to make such entry with the clerk of the county court, and the same surveyed by any legal surveyor of the next or neighbouring county, shall be good and sufficient to enable such person to obtain a patent or grant for the same.

11. *Provided always*, That the surveyors of the counties of Monongalia, Harrison, Randolph, and Ohio, shall not be accountable to the president and masters of William and Mary college for any part of the fees which have accrued to them for services subsequent to the first day of January, one thousand seven hundred and eighty-eight, or shall hereafter accrue ; and the bonds given by them for the yearly payment of one-sixth part of their fees to the president and masters of the said college, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of January, in the year last mentioned, or shall hereafter become due.

12. *Provided nevertheless*, That each of the surveyors of the said counties of Monongalia, Harrison, Randolph, and Ohio, hereafter to be appointed, shall, within one month after he shall be required





by the board of trustees of the Randolph academy, give bond with sufficient security, in a reasonable sum, for the yearly payment of one-sixth part of the fees which he shall receive, to the said trustees, for the use of the said academy; and in case any one of the said surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said trustees, the sum of three hundred dollars annually, to be recovered by motion in the court of the county of such surveyor, upon giving him ten days previous notice of such motion.

13. Every person having a land warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely, as that others may be enabled with certainty to locate other warrants on the adjacent residuum; which location shall bear date, the day on which it shall be made, and shall be entered by the surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries.

Land warrants to be lodged with the principal surveyor

Locations to be precisely made, and entered in a book.

14. And if several persons shall apply with their warrants at the office of any surveyor at the same time, to make entries, they shall be preferred according to the priority of the dates of their warrants; but if such warrants be dated on the same day, the surveyor shall settle the right of priority between such persons by lot.

Preference, where several applications to locate the same land.

15. And every surveyor shall, at the time of making entries for persons not being inhabitants of his county, appoint a time for surveying their land, and give notice thereof in writing to the persons making the same; and if on such application at his office, the surveyor shall refuse to enter such location, under pretence of a prior entry for the same lands made by some other persons, he shall have a right to demand of the said surveyor, a view of the original of such prior entry in his book, and also an attested copy of it.

Notice of time of surveying to persons out of the county.

16. Any chief surveyor having a warrant for lands, and desirous to locate the same within his own county, shall enter such location with the clerk of the county, who shall return the same to his next court, to be there recorded; and the said surveyor shall proceed to have the survey made as soon as may be, or within six months at farthest, by some one of his deputies, or if he hath no deputy, then by any surveyor or deputy surveyor of an adjacent county; and in case of failure, his entry shall be void, and the land liable to the entry of any other person.

How a surveyor may locate his own warrants.

17. Every chief surveyor shall proceed with all practicable dispatch, to survey all lands entered for in his office, and shall, if the party live within his county, either give him personal notice of the time at which he will attend to make such survey, or shall publish such notice, by fixing an advertisement thereof on the door of the courthouse of the county, on two several court days; which time, so appointed, shall be at least one month after personal notice given, or after the last advertisement so published; and if the surveyor shall accordingly attend, and the party, or some one for him, shall fail to appear at the time, with proper chain carriers, and a person to mark the lines, if necessary, his entry shall become void, the land thereafter subject to the entry of any other person, and the surveyor shall return him the warrant, which may, notwithstanding, be lo-

When and how surveys of located lands are to be made.



cated anew, upon any other waste or unappropriated lands, or again upon the same land, where it hath not in the mean time been entered for by another person.

Variation of the magnetic needle to be expressed in plats of surveys.

18. And whereas many inconveniencies have arisen from the inattention of surveyors to the variation of the magnetic needle, in resurveying lands which were formerly surveyed, when the variation was very different from what it is now, and many mistakes and much confusion may arise in comparing future surveys with the present: For remedy whereof, *Be it enacted*, That every surveyor shall, under the penalty of fifteen dollars, express and declare, in or on the plat and return of each survey, by him or them taken or made, the true quantity or degree of the variation aforesaid, and whether it be east or west.

Proviso.

19. *Provided always*, That when any surveyor shall be called upon, or ordered to resurvey any lands, that may have been surveyed before the first day of June, in the year of our Lord, one thousand seven hundred and seventy-three, such surveyor shall or may resurvey such lands, according to the mode of surveying by the magnetic meridian, but shall, nevertheless, under the penalty aforesaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making such resurvey, and shall also, in the said plat and return, certify (where the same can be done) the quantity or degree of variation between the original lines of such former survey, from the true meridian aforesaid.

Penalty for failure, how recoverable.

20. The penalty of fifteen dollars aforementioned, may be recovered by any person or persons who shall sustain any damage by the surveyor's failing to comply with the directions aforesaid, who will inform or sue for the same, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

Surveyor may direct a deputy to survey.

21. Where the chief surveyor doth not mean to survey himself, he shall immediately after the entry made, direct a deputy surveyor to perform the duty, who shall proceed as is before directed in the case of the chief surveyor.

Chain carriers to be sworn.

22. The persons employed to carry the chain on any survey, shall be sworn by the surveyor, whether principal or deputy, to measure justly and exactly, to the best of their abilities, and to deliver a true account thereof to such surveyor, and shall be paid for their trouble by the party for whom the survey is made.

Surveys to be closed, lines marked, and length and breadth proportioned. Exception.

23. The surveyor, at the time of making the survey, shall not leave any open lines, but shall see the same bounded plainly by marked trees, except where a water course, or ancient marked line shall be the boundary, and shall make the breadth of each survey, at least one-third of its length in every part, unless where such breadth shall be restrained on both sides by mountains unfit for cultivation, by water courses, or the bounds of lands before appropriated.

Plats and certificates, when to be delivered.

24. The surveyor shall, as soon as it can conveniently be done, and within three months at farthest after making the survey, deliver to his employer, or his order, a fair and true plat and certificate of such survey, the quantity contained, the hundred (where hundreds are established in the county wherein it lies), the courses and descriptions of the several boundaries, natural and artificial, ancient and new, expressing the proper names of such natural boundaries, where they have any, and the name of every person whose former





lines made a boundary, and also the nature of the warrant and rights on which such survey was made.

25. The said plats and certificates shall be examined and tried by the said principal surveyor, whether truly made and legally proportioned as to length and breadth, and shall be entered within three months at farthest, after the survey is made, in a book well bound, to be provided by the court of his county at the county charge; and he shall in the month of July every year, return to the president and professors of William and Mary college, and also to the clerk's office of his county court, a true list of all surveys made by him or his deputies in the preceding twelve months, with the names of the persons for whom they were respectively made, and the quantities contained in each, there to be recorded by such clerk; and no person shall hereafter hold the offices of clerk of a county court and surveyor of a county, nor shall a deputy in either office, act as deputy or chief in the other.

To be examined and entered in the book of the principal surveyor.

Lists of surveys to be annually returned to the clerk of the county and to the college.

No person to be clerk and surveyor of the same county.

26. Any surveyor, whether principal or deputy, failing in any of the duties aforesaid, shall be liable to be indicted in the court of the district in which he shall reside, and punished by amercement or deprivation of his office, and incapacity to take it again, at the discretion of a jury; and shall moreover be liable to any party injured, for all damages he may sustain by such failure.

How surveyors may be punished for neglect.

27. Every county court shall once in every year, and oftener if they see cause, appoint two or more capable persons to examine the books of entries and surveys in possession of their chief surveyor, and to report in what order and condition the same are kept; and on his death, or removal, shall have power to take the same into their possession, and deliver them to the succeeding chief surveyor.

Their offices to be annually inspected.

28. If any surveyor, or other person who may be in possession of any such book of entries or surveys, shall refuse or neglect to produce such book to the persons, who by any court may be appointed to examine the same, or to deliver up the same agreeable to the order of such court, to any chief surveyor who has succeeded or may succeed any surveyor dead, or removed from office, such surveyor, or other person, shall, for every such refusal, or neglect, forfeit and pay the sum of thirty dollars; one-half to the use of the county, and the other half to the use of the person suing for the same; to be recovered by action of debt, plaint, or information.

Penalty on surveyors refusing to produce or deliver up their books when required by the court.

29. And for preventing hasty and surreptitious grants, and avoiding controversies and expensive law suits: *Be it enacted*, That no surveyor shall, at any time within twelve months after the survey made, issue or deliver any certificate, copy, or plat of land by him surveyed, except only to the person or persons for whom the same was surveyed, or to his, her or their order, unless a *caveat* shall have been entered against a grant to the person claiming under such survey, to be proved by an authentic certificate of such *caveat*, from the clerk of the court where such *caveat* shall be entered, produced to the surveyor; and if any surveyor shall presume to issue any certificate, copy, or plat as aforesaid, to any other than the person or persons entitled thereto, every surveyor so offending, shall forfeit and pay to the party injured, his, or her legal representatives, or assigns, one hundred dollars for every hundred acres of land contained in the survey, whereof a certificate, copy or plat shall be so issued, or shall be liable to the action of the party injured at the common law, for his or her damages, at the election of the party.

No plat to be delivered but to the owner within a year;

Unless a caveat be entered.

Penalty.





No entry to be made without a warrant from the register, or a certificate from a surveyor.

Plats of surveys to be returned into the land office within twelve months.

*Caveats.*

Proceedings thereon.

30. It shall not be lawful for any surveyor to admit an entry for any land, without a warrant from the register of the land office, or on a certificate from a principal surveyor, that such warrant is filed in his office, which certificate shall describe the number thereof, the time when issued, to whom, and the assignments thereon, if any there be.

31. Every person for whom any waste or unappropriated lands shall be so located and laid off, shall, within twelve months at farthest after the survey made, return the plat and certificate of the said survey into the land office, and may demand of the register a receipt for the same; and on failing to make such return within twelve months as aforesaid, or if the breadth of his plat be not one-third of its length, as before directed, it shall be lawful for any other person to enter a *caveat* in the said land office against the issuing of any grant to him, expressing therein for what cause the grant should not issue; or if any person shall obtain a survey of lands to which another hath by law a better right, the person having such better right may, in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; such *caveat* also expressing the nature of the right on which the plaintiff therein claims the said land.

32. The person entering any *caveat*, shall take from the register of the land office, a certified copy thereof, which within thirty days thereafter, he shall deliver to the clerk of the court of that district or county in which the land lies; and shall moreover take from the surveyor of the county, or from the register's office, a certified copy of the survey and plat, which within thirty days from the entering such *caveat*, he shall in like manner deliver to the clerk of the court where the suit shall be instituted; and in case of failure in either instance, the *caveat* shall be void.

33. The clerk of such court, on receiving the same, shall enter such copy of the *caveat* in a book to be kept by him for that purpose, and shall thereupon issue a summons, reciting the cause for which such *caveat* is entered, and requiring the defendant to appear on the first day of the next succeeding district court, or quarterly session, if the suit be instituted in a county court, and defend his right; and on such process being returned executed, the court shall proceed to determine the right of the cause in a summary way, without pleadings in writing, impannelling and swearing a jury for the finding of such facts as are material to the cause, and are not agreed by the parties, and shall thereupon give judgment; a copy of such judgment, if in favor of the defendant, being delivered into the land office, shall vacate the said *caveat*; and if not delivered within three months, a new *caveat* may for that cause be entered against the grant; and if the said judgment be in favor of the plaintiff, upon delivering the same into the land office, together with a plat and certificate of the survey, and also producing a legal certificate of new rights on his own account, he shall be entitled to a grant thereof; but on failing to make such return, and produce such certificates within six months after judgment so rendered, it shall be lawful for any other person to enter a *caveat* for that cause against issuing the grant; upon which subsequent *caveats*, such proceedings shall be had as are before directed in the case of an original *caveat*; and in any *caveat*, where judgment shall be given for the defendant, the court shall award him his costs, and may compel the



plaintiff, in any *caveat*, if they think fit, to give security for costs, or on failure thereof, may dismiss the suit; and in case the plaintiff in any such *caveat* shall recover, the court may, if they think it reasonable, award costs against the defendant: *Provided*, That where any lands surveyed upon a land warrant as aforesaid, shall in consequence of any judgment upon a *caveat*, be granted to any other person than the party claiming under such warrant, such party shall be entitled to a new warrant from the register for the quantity of land so granted to another, reciting the original warrant and rights, and the particular cause of granting the new warrant.

34. *Provided always*, That no *caveat* shall be entered, unless the person at the time of entering such *caveat*, shall file with the register or his deputy, an affidavit that such *caveat* is really and *bona fide* made with an intention of procuring the lands for the person in whose name such *caveat* is entered, and not in trust for the benefit of the person against whom such *caveat* is entered; and all *caveats* entered contrary to the directions of this act, shall be absolutely null and void.

Affidavit to be filed by the person entering a caveat.

35. And wherever a summons upon a *caveat* shall either not be returned at all, or be returned not executed, the *caveat* upon which such summons shall have issued, shall be dismissed with costs, unless the court, before whom such *caveat* shall be depending, shall be satisfied that the said summons not having been executed, did not proceed from the neglect of the party who entered such *caveat*.

Caveats to be dismissed if the summons be not served or not returned.

36. And whereas in some cases plats and certificates of survey have not been recorded, in the surveyor's office, nor returned to the register's office within the times respectively limited by law, and it is doubtful whether the lands held under such surveys are not still liable to be *caveated*: *Be it therefore enacted*, That where no *caveat* shall be entered before the said duties respectively shall be performed, such lands shall not thereafter be liable to forfeiture on account of such failure.

Caveats not to be entered after the duties performed.

37. The clerks of the several district and county courts, within one month after the end of every session of the said courts, shall return to the register of the land office, an attested list of all *caveats* that were dismissed or determined at the said preceding court, which the register shall compare with the *caveat* book; and in all cases where he shall find that the *caveats* have been dismissed, or determined in favor of the defendant, he shall make out grants for such lands, as if no such *caveats* had been entered in his office.

Lists of caveats dismissed, or determined to be sent to the land office.

38. Whosoever upon a *caveat*, the court shall determine in favor of a *caveator*, all the fees he shall pay into the register's office, in consequence of such determination, in order to obtain his patent, shall be by the register paid to the person who, in the first instance upon the return of the survey, hath been compelled to pay the fees.

When a caveat is established, fees paid by the caveator to be paid to the person returning the survey.

39. And to prevent confusion and mistakes in the application, exchange or renewal of warrants, the register of the land office is hereby directed and required, to leave a sufficient margin in the record books of his office, and whenever any warrant shall be exchanged, renewed, or finally carried into execution, by a grant, to note the same in the margin opposite to such warrant, with folio references to the grant, or other mode of application; and also to note in the margin opposite to each grant, the warrant or warrants, and survey on which such grant is founded, with proper folio references to the books in which the same are recorded.

Notes and references to be made by the register in the margins of the record books containing the warrants and grants.





Warrants and certificates of surveys transferable. Foreigners may locate and survey lands.

40. All persons, as well foreigners as others, shall have right to assign or transfer warrants or certificates of survey for lands; and any foreigner purchasing warrants for lands, may locate and have the same surveyed, and after returning a certificate of survey to the land office, shall be allowed the term of two years, either to become a citizen, or to transfer his right in such certificate of survey, to some citizen of this, or any other of the United States of America.

Plats of surveys on which grants may issue, to be recorded.

41. When any grant shall have been finally completed, the register shall cause the plat and certificate of survey on which such grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpose at the public charge.

Form of the grant.

42. Due returns of the several articles herein before required, being made into the land office, the register, within not less than six, nor more than nine months, shall make out a grant by way of deed-poll, to the party having right, in the following form: "*A. B. esquire, governor of the commonwealth of Virginia, to all to whom these presents shall come, greeting: Know ye, that in consideration of military service performed by C. D. to this commonwealth, &c. (or in consideration of military service performed by C. D. to the United American states, or in consideration of the sum of paid by C. D. into the treasury of this commonwealth, &c.) there is granted by the said commonwealth unto the said C. D. a certain tract or parcel of land containing        acres, lying in the county of       , and hundred of       , &c. (describing the particular bounds of the land, and the date of the survey upon which the grant issues) with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said C. D. and his heirs, forever. In witness whereof the said A. B. governor of the commonwealth of Virginia, hath hereunto set his hand, and caused the seal of the said commonwealth to be affixed at       , on the day of       , in the year of our Lord       , and of the commonwealth       . A. B.*"

To be signed, sealed, and recorded.

43. Upon which grant the said register shall endorse, that the party hath title to the same, whereupon it shall be signed by the governor, sealed with the seal of the commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpose at the public expense, and kept by the register; and being so entered, shall be certified to have been registered, and then be delivered to the party or his order.

If made to heirs or assignees, material circumstances of the title to be recited.

44. Where a grant shall be made to the heir or assignee of a person claiming under any of the before mentioned rights, the material circumstances of the title shall be recited in such grant.

Rights of pre-emption of infants, *femes covert*, &c. to swamps, &c. contiguous to their high lands.

45. The proprietor of any high lands, to which any swamps, marshes or sunken grounds are contiguous, if an infant, *feme covert*, beyond sea, or under any other legal disability, shall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after such disability shall be removed.

Method of obtaining grants for surplus lands within the bounds of patents.

46. And whereas, through the ignorance, negligence, or fraud of surveyors, it may happen that divers persons now do, or may hereafter hold within the bounds expressed in their patents or grants, greater quantities of land than are therein mentioned: For quieting such possessions, preventing controversies, and doing equal justice to the commonwealth and its citizens, *Be it enacted*, That it shall not be lawful for any person to enter for, survey, or take up



any parcel of land held as surplus in any patent or grant, except during the lifetime of the patentee or grantee, and before any transference, conveyance, or other alienation shall have been made of the lands contained in such patent or grant, and until the party intending to enter and take up the same, shall have given one full year's notice to such patentee or grantee of such his intention; and in case such patentee or grantee, shall not within the year, obtain rights and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice as aforesaid, upon producing a certificate from the clerk of due proof of such notice before the court of the county wherein such patentee or grantee resides, and to demand from the register of the land office, a warrant to the surveyor of the county wherein such lands lie, to resurvey at the proper charge of the person obtaining such warrant, the whole tract within the bounds of the patent or grant, and upon such person's returning into the land office a plat and certificate of such resurvey, together with the warrant on which it is founded, and obtaining and producing new rights for all the surplus land found within the said bounds, he may sue forth and obtain a new grant for such surplus, which shall be granted to him in the same manner as waste or unappropriated land; but the former patentee or grantee may assign such surplus land in any part of his tract as he shall think fit, in one entire piece, the breadth of which shall be at least one-third of the length, and in such new grant there shall be a recital of the original patent or grant, the resurvey of which the surplus was ascertained; and of other material circumstances.

47. *Provided always*, That if upon notice given as aforesaid, the original patentee or grantee shall, within the year, resurvey his tract, and it be thereupon found that he hath no more than the quantity of land expressed in his patent or grant, with the allowance herein after mentioned, the party giving such notice shall be liable to pay all charges of such resurvey, for which he shall give sufficient security to the said patentee or grantee, at the time of the notice, otherwise such notice shall be void and of no effect; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or grantee shall have an allowance, at the rate of five acres in every hundred, for the variation of instruments.

*Proviso for the relief of land-holders unjustly vexed.*

48. Where any person shall find any mistake or uncertainty in the courses or description of the bounds of his land, and desires to rectify the same, or shall hold two or more tracts of land adjoining to each other, and is desirous to include them in one grant, he may in either case, having previously advertised his intentions, and the time of application, at the door of the courthouse on two several court days, and also having given notice to the owners of the adjoining lands, present a petition to the court of the county in which the lands lie, reciting the nature and truth of the case, and such court may, and is hereby empowered to order the surveyor of their county to resurvey such lands at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the possessions of any other person, and to return a fair plat and certificate of such resurvey into the said court, to be examined and compared with the title papers; and if such court shall certify that, in their opinion, such resurvey is just

*Method of rectifying mistakes in bounds, and obtaining inclusive patents.*





and reasonable, the party may return the same, together with his material title papers into the land office, and demand the register's receipt for them; and in case any *caveat* shall be entered against his obtaining a new grant upon such resurvey, the same proceedings shall be had therein, as is directed in the case of other *caveats*, and the court upon hearing the same, may either prohibit such new grant, or vacate the *caveat*, as to them shall seem just; but if no *caveat* shall be entered within six months after such return, or if a *caveat* shall be entered and vacated as aforesaid, the party upon producing new rights for whatever surplus land appears to be within the bounds, more than the before mentioned allowance of five acres for every hundred, may sue out and obtain a new grant for such lands thereupon, in which shall be recited the dates and other material circumstances of the former title, and the title papers shall be delivered by the register to the new owner.

The general court to cause the land office to be examined once in every year or oftener, and certain warrants to be cancelled.

All original warrants to be filed with the title papers.

Plats on which surveys have issued, to remain in the office.

When and how the register shall account for the fees received.

Fees to be paid on receipt of the plat into the office.

High sheriff to vote when the court is divided in the recommendation of a surveyor.

Surveyors not to withhold plats from the owners.

49. The judges of the general court shall once in every year, and oftener if they see cause, appoint two or more capable persons, to examine the record books and papers in the land office and report in what condition and order they are kept, who shall compare all warrants of survey returned to the said office executed, with the list of those issued therefrom, and cancel all such as shall appear to have been properly executed or exchanged; an account of which shall be kept by the register, charging therein those issued, and giving credit for those cancelled as aforesaid; but no original warrant shall be burnt or otherwise destroyed, but shall be regularly filed in the land office with the title papers.

50. No original plat and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the land office, but shall remain amongst the other evidences of the title.

51. The register of the land office shall account for with the auditor, and pay regularly into the treasury, at the end of every six months, all fees by him received from time to time, making oath that the fees so accounted for, are the whole profits accruing from the said office, so far as he knows or believes, up to the date of such account; and moreover his accounts of fees received, shall be fairly stated, and compared by the auditor with the books of his office, before the account shall be passed. If the register of the land office shall at any time fail to account, according to the directions of this act, for the space of six months, he shall forfeit and pay the sum of ten thousand dollars, to be recovered in the name of the governor or chief magistrate for the time being, in any court of record, by the auditor, on thirty days previous notice; and the *onus probandi* shall lie on the defendant.

52. On receiving each survey into the register's office, the fees established by law, that will accrue on the same, including the issuing of the grant thereupon, shall be paid; and if the register shall credit any person, he shall account for the fees so credited in the same manner as if they had been received.

53. Whensoever any county court shall be so divided in the recommendation of a surveyor, that neither of the candidates shall be recommended, it shall be lawful for the high sheriff of such county, and he is hereby required, to vote in favor of one of those candidates between whom the court shall be divided.

54. It shall not be lawful for any county surveyor, hereafter to withhold from any person entitled to demand the same, a plat by





him demanded; and every surveyor out of office, shall have the same remedy for fees due to him, as is hereby given to the acting surveyors: *Provided*, That no surveyor shall be obliged to deliver a plat of land to any person or persons not resident within the state, before the fees for the same shall be paid, or such security given for the payment thereof, as to him shall be deemed sufficient.

Surveyors out of office, how they may recover their fees.  
When surveyors may withhold plats until the fees are paid or secured.

55. The surveyor or surveyors of any county or counties from which a new county hath been taken, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the surveyor of the new county, attested copies of all entries made upon lands within such new county, on his books, and not surveyed, together with the warrants upon which they were founded; for which service, he shall receive five cents for every such attested copy, to be paid by the surveyor of the new county, upon receipt of the said attested copies. And, in case any surveyor shall refuse or neglect to make out, or deliver such attested copies of entries within the time aforesaid, or at the expiration of the said time, upon the application of the surveyor of the new county, he shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt or information, in any court of record, by any person who will sue for the same; any law to the contrary, notwithstanding.

When a new county is formed, copies of entries for lands therein to be delivered to the surveyor thereof, by the surveyor of the former county.

56. The court of every county, at some court between the first day of June, and the first day of September, which shall be in the year of our Lord, one thousand seven hundred and ninety-five, and so between the first day of June and the first day of September in every fourth year thereafter, shall divide their counties into so many precincts, as to them shall seem most convenient, for processioning every person's land in their respective counties, and shall appoint the particular times between the last day of September and the last day of March, then next coming, when such processioning shall be made in every precinct; and shall also appoint two or more intelligent, honest freeholders, of every precinct, to see such processioning performed; and to take and return to the said court, an account of every person's land they shall procession, and of the persons present at the same, and what lands in their precinct they shall fail to procession, and the particular reasons of such failure; a copy of which order, shall be delivered by the clerk of every court, respectively, to the freeholders so appointed, within fifteen days after the making thereof; and the said freeholders shall cause the same to be obeyed in every particular, and shall cause notice to be given at the most public places in their county, at least three weeks before the same is to be performed, of the time appointed by them for processioning in each precinct; and the said court shall also cause the accounts returned by the freeholders, to be registered in particular books to be kept for that purpose by their clerk. Each processioner shall be allowed by the court of his county, fifty cents for every day he shall be employed in the business; and every county court shall make a reasonable allowance to the clerk thereof, for the services to be performed by him, by virtue of this act; which several allowances shall be levied in their next county levy.

Bounds of lands to be processioned every fourth year, beginning in 1795.

Processioners.

Allowance to them.

57. And that no person may pretend ignorance, the court are also to direct what precinct or precincts in their county, respectively, every particular freeholder thereof shall attend and perform the processioning, as aforesaid. And if any county court shall fail

Penalty for failure on the court;



On the persons appointed to procession;  
On the clerk of the court;

On any other person.

How appropriated and recoverable,

What shall be deemed a sufficient excuse.

Bounds processioned three times shall never be altered.

Former processionings confirmed.

How disputed bounds shall be laid out where the parties refuse to have their lands processioned.

Where the lands lie in two or more counties.

to make such order as aforesaid, every justice of the peace of such county, shall forfeit and pay twenty-five dollars. And if any freeholder shall fail to obey and execute such order, every freeholder failing, shall forfeit and pay fifteen dollars; and any county court clerk, failing to perform his duty as directed by this act, shall forfeit and pay twenty-five dollars.

58. And if any other person not having lawful excuse (to be judged of by the county court) shall fail to perform his duty as is herein before required, every person so failing, shall forfeit and pay fifteen dollars; one moiety of which several forfeitures shall be to the use of the poor of the county, and the other half to the informer, and may be recovered in any court of record within this commonwealth, having jurisdiction thereof.

59. *Provided always*, That in any suit, information, or petition brought against a magistrate of a county, or any other person, for any breach of this act, where the defendant shall give sufficient evidence to the court, where the suit or information shall be depending, that he was necessarily absent, or that, being present, he offered to do his duty, pursuant to this act, in such case the suit or information as to such defendant shall be dismissed.

60. All and every processioning the bounds of any person's lands at three several times heretofore made according to the directions of the laws then in force, or hereafter to be made pursuant to the directions of this act, shall be held, and is hereby declared to be sufficient to settle such bounds, so as the same may never afterwards be altered; and every processioning made in pursuance of, and conformably to the former laws, shall be, and is hereby declared to be one of the three times of processioning by this act, held to be sufficient.

61. When any controversy shall hereafter happen between persons, whose lands lie contiguous, about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be processioned, in such case, the freeholders appointed as aforesaid, shall within ten days after such refusal, certify the same under their hands to the court of the county wherein such lands shall lie at their next session, and such court shall thereupon order their surveyor with a jury, to lay out the bounds in dispute at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next court, after the same shall be made, which return shall be recorded by the county court clerk.

62. If such lands shall happen to lie in two or more counties, then certificate as aforesaid shall be returned to the court of each county, and the court of that county in which the beginning of such controverted bounds shall lie, shall order their surveyor, with a jury of their county, to survey the whole bounds in dispute, and the sheriff of each county wherein the same shall lie, to attend the surveyor in their respective counties; and such survey shall be made, returned, recorded, and registered in the manner, and at the charge of the party against whom the right to such bounds shall be determined. And all and every survey and surveys, so as aforesaid made and registered, shall be held, deemed and taken to be a sufficient processioning of such lands, to all intents and purposes, as if the same had been done by, and with the consent of the owner thereof.





63. *Provided always*, That the processioning and settlement of the bounds of land held by any tenant for life only, shall not bar or conclude the heir in reversion or remainder, but such heir may at any time within six years after the death of such tenant, controvert the bounds as if no processioning or settlement had been made.

Heir in reversion or remainder may within six years after the death of the tenant for life, controvert the bounds.

64. The processioning and settling the bounds of lands belonging to any person, then being within the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not resident within this commonwealth, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

Also persons under legal disabilities.

65. The several penalties and forfeitures by this act laid, given or inflicted, shall and may be recovered with costs, by action of debt, information or petition, in any court of record within this commonwealth, wherein such penalty or forfeiture shall be cognizable.

Penalties, how recoverable.

66. All and every act and acts, clauses and parts of acts within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That all rights, remedies, fines, penalties and forfeitures, incurred or accruing under any former act, shall remain in the same condition as if this act had not been made.

Repealing clause.

Proviso.

67. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 25.—An ACT reducing into one, the several acts concerning forcible entries and detainers.

(Passed December 3, 1792.)

1. *Be it enacted by the general assembly*, That none shall make any entry into any lands and tenements, or other possessions whatsoever, but in case where entry is given by the law; and in such case not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any justice or justices of the peace, such justice or justices shall take sufficient power of the county, and go to the place where such force is made; and all the people of the county, as well the sheriff as others, shall be attendant upon the same justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement, at the discretion of a jury.

No lands or tenements to be entered or holden with force.

2. But no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same.

Offenders to be arrested.

No warrant of forcible entry, &c. to be granted but on oath.

3. The name or names, of the person or persons so charged, shall be inserted in every such warrant; and the sheriff or other officer to whom the same shall be directed, shall give reasonable notice, of at least three days, to such person or persons, of the time and place of taking the inquisition. And no jury shall be sworn to enquire of any forcible entry or detainer, where such previous notice hath not been given.

Offenders to have notice of the time and place of taking the inquisition.

4. And moreover, though such persons making such entries be present, or else departed before the coming of such justice or justices, notwithstanding the said justice or justices, in some convenient place, according to their discretion, shall have authority and power to enquire by the people of the same county, as well of them

Justices to enquire by jury of the force, and to cause to be resealed the lands so entered or holden.



that make such forcible entries in lands and tenements, as of them who hold the same with force; and if it be found before any of them, that any doth contrary to this act, then the said justice or justices shall cause to be reseized or to be repossessed, the lands and tenements so entered or holden as afore, and shall put the party so put out, in full possession thereof.

How the jury shall be summoned.

Penalty on the sheriff for neglect.

5. And also when the said justice or justices make such enquiries as before, he or they shall make their warrants and precepts, to be directed to the sheriff of the same county, commanding him on behalf of the commonwealth; to cause to come before him or them, fit persons to enquire of such entries; and if any sheriff be slack, and make not execution duly of the said precepts to him directed, to make such enquiries, he shall forfeit eighty dollars, recoverable before any court of record, as well by indictment or information, to be taken only for the commonwealth, as by bill at the suit of the party grieved, as well for himself as for the commonwealth; in which case one moiety of the said eighty dollars shall be to the commonwealth, and the other moiety, together with his costs and expenses, shall be to the party suing.

Mayors, aldermen and serjeants to have the same power as justices and sheriffs.

6. And moreover mayors, aldermen, and serjeants of cities and boroughs, shall have in the said cities and boroughs, like power to remove such entries, and in other articles aforesaid arising within the same, as the justices of peace and sheriffs in counties respectively have.

Restitution not to be made if the party indicted hath had three years possession.

7. But no restitution upon any indictment of forcible entry or holding with force, shall be made to any, if the party indicted hath had the occupation, or hath been in quiet possession by the space of three whole years together, next before the day of such indictment so found, and his estate therein be not ended or determined; which the party indicted may alledge for stay of restitution, and restitution shall stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the party so indicted, then the same party so indicted, shall pay such costs and damages to the other party, as shall be assessed by the judges or justices before whom the same shall be tried.

To be stayed until that be tried.

Party indicted to pay costs and damages, if it be found against him.

Tenants for years or by *elegit* to have the same remedy as tenants of freehold estates.

8. Tenants for terms of years, and tenants by *elegit* of lands, or tenements by them so holden, which shall be entered upon by force, or holden from them by force, shall have the same remedy as tenants of any estate of freehold or of inheritance.

Repealing clause.

9. All and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

10. This act shall commence in force from and after the passing thereof.

#### CHAP. 26.—An ACT to prevent unlawful hunting and ranging.

(Passed December 4, 1792.)

Penalty for hunting, fishing or fowling, within the lands or tenements of another.

1. *Be it enacted*, That if any person or persons, shall at any time shoot, hunt, or range upon the lands or tenements, or fish, or fowl in any creeks or waters included within the bounds of any other person or persons, without license first obtained of the owner of such lands; every such offender shall forfeit and pay three dollars for every such offence, to be recovered with costs, before any justice of the peace of the county where the offence shall be committed, by the informer, to his own use; in which information, the confession of the party accused, or the oath of one credible witness,





shall be sufficient evidence. And where the owner of the land shall prosecute for any unlawful shooting, hunting, ranging, fishing, or fowling within his bounds, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the penalty shall be paid to the overseer of the poor of the district wherein the offender resides, to the use of the poor of such district; and moreover every such offender shall be liable to the action of the party grieved, at the common law, for his or her damages.

The offender also liable to action at the common law.

2. If any person shall be the third time convicted of any such offence as aforesaid, the justice of peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common goal, there to remain until he give such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the overseers of the poor, for the use of the poor of the district wherein such conviction shall be.

Upon a third conviction, the offender, besides paying the penalty, shall be bound to his good behaviour, or committed.

Conviction of such offence after security given, shall be a breach of the good behaviour.

3. All and every act or acts, within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

4. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 27.—An ACT to reduce into one, the several acts for the better securing the payment of rents, and preventing the fraudulent practices of tenants; and to regulate the practice of suing out and prosecuting writs of replevin.

(Passed November 29, 1792.)

1. *Be it enacted by the general assembly,* That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract whatsoever, and the tenant or owner, of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the sheriff or officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same, at the end of three months; in such case, such sheriff or officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made.

The method of proceeding in distresses for rent.

2. All and every bond and bonds, so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid

Tenor of the bonds to be taken in pursuance of this act.

Mode of proceeding for the recovery.





very of the money  
due thereon.

according to the condition of any such bond, it shall be lawful, and full power and authority is hereby given to the justices of the court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution, the sheriff or officer shall not take any sureties for payment of the money or tobacco at a further day, but shall levy the same immediately. And for the better direction of such sheriff or officer, the clerk shall endorse upon the back of every such execution, that "no security is to be taken."

Where the distress is made for tobacco between the 30th of September and the 31st of December.

3. *Provided always*, That when distress shall be made for tobacco, between the last day of September and the last day of December, in any year, and the goods distrained shall not be replevied as aforesaid, such goods shall be sold, and security taken for paying the tobacco by the first day of January then next ensuing; and the bonds taken for the same, and costs of seizure and sale, shall be by the officer delivered to the landlord for whom distress was made; which last mentioned bonds, shall have the like force, and may be proceeded upon in the same manner, as any other bond directed to be taken by this act.

Remedy in case of  
wrongful distress.

4. In case any distress and sale shall be made, under colour of this act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the person or persons distraining, or to him, her or them in whose name or names, or right, such distress shall be taken as aforesaid; then the owner of the goods and chattels so distrained and sold, his executors or administrators, shall have remedy, by action of trespass, or upon the case, against the person and persons so wrongfully distraining, or either of them, his, her or their executors and administrators, and shall recover double the value of the goods and chattels so distrained and sold, together with full costs of suit.

Treble damages  
upon pound breach  
or rescous.

5. Upon any pound breach, or *rescous*, of goods or chattels, distrained for rent, the person or persons grieved thereby, shall, in a special action upon the case, for the wrong thereby sustained, recover treble damages, with costs of suit, against the offender and offenders, in any such *rescous* or pound breach, or either of them, or against the owner of the goods distrained, in case the same be afterwards found to have come to his or her use or possession.

Goods upon lease-  
hold lands not to  
be taken in execu-  
tion until the rent  
in arrear be paid.

6. No goods or chattels whatsoever, lying or being in or upon any messuage, lands, or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution.

Proviso.

7. *Provided nevertheless*, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment: And the sheriff or officer serving the same, is hereby empowered and required, to levy and pay to the plaintiff, as well the money or tobacco so paid for rent, as the execution money.



8. Where any landlord shall have sufficient grounds to suspect that his tenant will remove with his effects out of the county or corporation, before the expiration of his term, so as no distress for the said rent can be made, it shall be lawful for such landlord to go before any justice of the peace of the county or corporation, where the lands leased do lie, and make oath what rent the tenant is to pay, and at what time the same will be due, and that he has just cause to suspect, and verily believes such tenant will remove his or her effects out of the county or corporation before time of payment; and thereupon such justice may, and is hereby empowered and required, to issue an attachment against the goods and chattels of such tenant, returnable to his next county or corporation court; and if such tenant shall not, at the time of serving such attachment, or before, or at such next court, enter into recognizance, with one or more sufficient securities, for the payment of the said rent at the time it shall become due, it shall be lawful for such court, and they are hereby required to order the goods attached to be sold by the sheriff or serjeant at public auction, for money or tobacco according to the reservation of the rent, to be paid at the time the rent shall become due, the purchasers giving good security for such payment, and to assign the bonds taken for the same, and the costs to such landlord; and the overplus of such sale, if any, besides the charges of attachment and sale, to return to the owner.

Where the landlord suspects his tenant will remove, he may have an attachment.

9. In case any lessee for life or lives, term of years, at will, or otherwise, of messuages, lands or tenements, upon the demise whereof any rents are or shall be reserved, or made payable, shall at any time fraudulently or clandestinely convey or carry off, or from such demised premises, his goods or chattels, with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall be lawful for such lessor or landlord, or any person or persons by him for that purpose lawfully empowered, within ten days next after such conveying away or carrying off such goods and chattels, to take and seize the same wherever they shall be found, as a distress for the arrears of such rent, and the same to sell in like manner as if they actually had been distrained by such lessor or landlord in and upon the demised premises.

Goods carried off the premises may be seized within ten days thereafter.

10. *Provided always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent.

But not if sold before seizure.

11. Any person or persons having rent in arrear, or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years.

Rent arrear upon lease for life recoverable by action of debt.

12. It shall be lawful for any person or persons having rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined.

How rent arrear may be distrained for after determination of the lease.

13. *Provided*, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due. And no distress for rent shall be made in any case whatsoever, but within five years after such rent shall have become due and in arrear.

Proviso.





Saving debts due to the commonwealth.

14. *Provided also*, That nothing in this act contained, shall extend or be construed to let, hinder, or prejudice the commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures due, payable or answerable to the commonwealth; but that the same may be levied, recovered and seized, in the same manner as if this act had never been made.

No writ of replevin to be issued until bond and security be given.

15. And whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, *Be it enacted*, That before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ shall enter into bond, with one or more sufficient securities, in the clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the court in such suit, in case he, she or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the clerk shall in like manner endorse, that "no security is to be taken."

Rent being found due, the party delayed to recover double the value.

Person other than the tenant may sue out writ of replevin, and if cast shall pay double the rent.

16. Where any person shall suggest that the goods distrained, are his or her property, and not the property of the tenant, nor held in trust for the use of the tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid.

Suits in replevin to be speedily tried.

17. And for the more speedy determination of all such writs of replevin:

18. *Be it further enacted*, That every such writ shall be returnable to the next court after the same shall be issued, and such court shall at their next sitting after the return, cause an issue to be made up therein, which shall be tried at the following court, without waiting for its turn in the order of priority in regard to other suits.

Grantees of lands, or the reversions, to have the same right of entry for non payment of rent, &c. as the original lessors.

19. All persons being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof, from any person or persons, and the heirs, executors, and administrators and assigns of such grantees or assignees, shall and may have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for nonpayment of the rent, or for doing of waste, or other forfeitures; and also shall and may have and enjoy all and every such like covenants and agreements, contained and expressed in the indentures of their said leases, demises or grants, against all the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs ought, should or might have had, or enjoy at any time or times.

Lessees of lands to have the same

20. All lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators or assigns,



shall and may have like action, advantage against all and every person and persons, their heirs and assigns, which have or shall have any gift or grant of the reversion of the said lands, tenements, or hereditaments, so letten, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their lease and leases, as the same lessees or any of them, might and should have had against the said lessors and their heirs; all benefit and advantage of recoveries in value by reason of any warranty in deed or in law, only excepted.

21. The executors and administrators of any person unto whom any rent is or shall be due, and not paid at the time of his death, shall and may have an action of debt for all such arrearages against the tenant or tenants, that ought to have paid the said rent so being behind in the life of their testator, or against the executors or administrators of such tenants; and also furthermore, it shall and may be lawful for every such executor and administrator of any such person, to whom such rent is or shall be due and not paid at the time of his death, to distrain for the arrearages of all such rents, on the lands, tenements, and other hereditaments, which were charged with the payment of such rents, and chargeable to the distress of the said testator, or intestate, so long as the same continue, remain, and be in the seizin or possession of the said tenant in *demesne*, who ought immediately to have paid the said rent, so being behind, to the said testator or intestate in his lifetime, or in the seizin or possession of any person or persons claiming the said lands, tenements, and hereditaments, only by and from the said tenant by purchase, gift or descent, in like manner and form as their said testator might or ought to have done in his lifetime; and the said executors and administrators for the same distress, lawfully may make avowry upon the matter aforesaid.

22. If any man which now hath or hereafter shall have in the right of his wife any estate in fee simple, or for term of life, or in any rents or fee farms, and the same rents or fee farms now be or hereafter shall be due, behind and unpaid in the said wife's life, then the said husband after the death of his said wife, his executors and administrators, shall have an action of debt for the said arrearages, against the tenant of the *demesne*, that ought to have paid the same, his executors or administrators, and also the said husband, after the death of his said wife, may distrain for the said arrearages, in like manner and form as he might have done, if his said wife had been then living, and make avowry upon his matter as is aforesaid.

23. The executors and administrators of any person or persons having rent in arrear or due upon any demise or lease, for life or lives, or for years, or at will, although the same be determined, shall and may have the like remedy by action of debt, or by distress, against the person who ought to have paid the same, his or her executors or administrators, as the testator if living, might or could have had.

24. It shall not be lawful for any person taking any distress to drive or remove the same out of the county where such distress was taken: And whosoever doth so, shall be amerced at the discretion of a jury; moreover distresses shall be reasonable and not too great, and he that taketh great and unreasonable distresses, shall be amerced for the excess of such distresses.

actions and advantages of covenants, &c. against the grantees of reversions as against the original lessors.

Executors and administrators may maintain debt against a tenant or his executors for rent due to their testator, or may distrain during the tenant's seizin or possession.

Husband having a fee simple or estate for life in right of his wife, may after her death maintain debt, or distrain for rent accruing during her life.

Executors and administrators may maintain debt or distrain for rent due to their testators, although the tenant's estate be determined.

Goods distrained not to be removed out of the county.





- Repealing clause.** 25. All and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.
- Proviso.** 26. *Provided*, That all rights and remedies given by every such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.
- Commencement.** 27. This act shall commence and be in force from and after the passing thereof.

### CHAP. 23.—An ACT for regulating conveyances.

(Passed December 13, 1792.)

No estate of freehold in lands or tenements to pass but by deed.

How, when and where such deeds must be acknowledged, or proved and recorded.

1. *Be it enacted by the general assembly*, That no estate of inheritance, or freehold, or for a term of more than five years, in lands or tenements, shall be conveyed from one to another, unless the conveyance be declared by writing, sealed and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the general court, or the court of that district, county, city, or corporation in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the clerk of such court to be there recorded.

How, when and where covenants and agreements in consideration of marriage must be acknowledged, or proved and recorded.

2. No covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses, to be his, her, or their act, if land be charged before the general court, or the court of that district or county in which the land or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled before the court of that district, county, city, or corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the clerk of such court, to be there recorded.

Livery of seizin to be recorded with the deed.

3. When any such deed or conveyance shall be acknowledged or proved in court, in order to their being recorded, the livery of seizin thereupon made, in such cases where the same is by law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made.

All conveyances, settlements, trusts and mortgages of lands and chattels, void as to creditors and subsequent purchasers, if not recorded.

4. All bargains, sales, and other conveyances whatsoever of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this act; but the same as between the parties and their heirs, shall nevertheless be valid and binding.

But binding between the parties.





5. If the party who shall sign and seal any such writing, reside not in Virginia, or in the district or county where the lands conveyed lie, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court of law, or the mayor or other chief magistrate of any city, town, or corporation of the county in which the party shall dwell, certified by such court, or mayor or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded within eighteen months after the sealing and delivering, where the party resides out of this commonwealth, and within eight months after the sealing and delivery where the party resides within this commonwealth, shall be as effectual as if it had been in the last mentioned court.

How deeds may be acknowledged or proved where the grantor resides out of the state, or the district or county where the lands lie.

6. When husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in court, and being examined privily and apart from her husband, by one of the judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said court acknowledge the said writing, again shewn to her, to be her act, or if before two justices of the peace of that county in which she dwelleth, if her dwelling be in the United States of America, who may be empowered by commission, to be issued by the clerk of the court wherein the writing ought to be recorded, to examine her privily, and take her acknowledgment, the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her by them, and consenteth that it may be recorded, and the said commissioners shall return with the commission, and thereunto annexed a certificate under their hands and seals of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded together with such her privy examination and acknowledgment before the court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman.

Deed by husband and wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States.

7. If the dwelling of the wife be not in the United States of America, the commission to examine her privily and take her acknowledgment, shall be directed to any two judges or justices of any court of law, or to the mayor, or other chief magistrate of any city, town, or corporation of the country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two justices in the United States of America; and the certificate of the judges or justices of such court, or the certificate of such mayor or chief magistrate, authenticated in the form, and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the justices in the United States of America. And whereas it has always been adjudged, that when a deed has been acknowledged by a *feme covert*, and no record made of her privy examination, such deed is not binding on the *feme* or her heirs: *It is therefore declared*, That the law herein shall always be held according to the said judgments; and the

To whom the commission must be directed if she resides out of the United States.

Privy examinations of *femes covert* void if not recorded.



clerks of the courts before whom any deed of a *feme covert* shall be acknowledged, shall always hereafter record her privy examination.

In what manner  
ledged or proved in  
courts shall be re-  
corded.

Memorials of such  
writings recorded  
in the district and  
county courts, to  
be recorded in the  
general court.

Persons having  
estates tail, to  
stand seized in fee  
simple.

Proviso respecting  
such estates as  
have or may be-  
come escheatable  
for defect of blood.

Such estates may  
be disposed of by  
will or deed, and  
shall be subject to  
debts in the same  
manner as estates  
in fee simple.

Every estate con-  
veyed or devised  
to be deemed a fee  
simple, unless a  
less estate be  
limited.

8. The clerk of every court shall record all writings acknowledged or proved before such court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings and plots, schedules and other papers thereto annexed, by entering them word for word in well bound books; to be carefully preserved, and afterwards redeliver them to the parties entitled to them, and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames and additions of the parties thereto in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the clerk of every district or county court, shall transmit such docket made by him to the clerk of the general court, on or before the first of October annually, to be recorded by him.

9. Every estate in lands or slaves, which on the seventh day of October, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue an estate in fee simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, so that as the law aforesaid was, such estate would have been an estate tail, shall also be deemed to have been and to continue an estate in fee simple. And all estates which before the said seventh day of October, one thousand seven hundred and seventy-six, by the law, if it remained unaltered, would have been estates in fee tail, and which now by virtue of this act, are, and will be estates in fee simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had and shall have the same power over the same estates, as if they were pure and absolute fees.

10. *Provided always*, That all estates in lands or slaves which have become, or shall hereafter become escheatable to the commonwealth, by virtue of the act, intituled, "*an act declaring tenants of lands or slaves in tail to hold the same in fee simple*;" or of this act, for defect of blood, shall descend and be deemed to have descended agreeable to the limitations of the deed or will creating such estates.

11. *Provided also*, That nothing in this act contained, shall be construed to restrain any tenant of such lands or slaves, from selling or conveying the same by deed in his or her lifetime, or disposing thereof by his or her last will and testament, and that all such estates shall remain liable to the debts of the tenants in the same manner as lands and slaves held in fee simple: *Provided moreover*, That this act shall not extend to any lands or slaves which have been escheated and sold for the use of the commonwealth.

12. Every estate in lands which shall hereafter be granted, conveyed, or devised to one, although other words heretofore necessary to transfer an estate of inheritance be not added, shall be deemed a fee simple, if a less estate be not limited by express words, or do





not appear to have been granted, conveyed, or devised by construction or operation of law.

13. Where an estate hath been, or shall be by any conveyance limited in remainder to the son or daughter, or to the use of the son or daughter of any person, to be begotten, such son or daughter born after the decease of his or her father, shall take the estate in the same manner as if he or she had been born in the lifetime of the father, although no estate shall have been conveyed to support the contingent remainder after his death.

When a contingent remainder shall be good, although there be no intermediate estate.

14. By deed of bargain and sale, or by deeds of lease and release, or by covenant to stand seized to use, or deed operating by way of covenant to stand seized to use, the possession of the bargainor, releasor, or covenantor, shall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releasee, or person entitled to the use for the estate or interest which such person hath, or shall have in the use, as perfectly as if such bargainee, releasee, or person entitled to the use had been enfeoffed, with livery of seizin of the land intended to be conveyed by such deed or covenant.

By what conveyances the possession of the grantor shall be transferred to the grantee, without livery of seizin.

15. Estates of every kind holden or possessed in trust, shall be subject to like debts and charges of the persons to whose use, or for whose benefit they were, or shall be, respectively holden or possessed, as they would have been subject to, if those persons had owned the like interest in the things holden or possessed, as they own or shall own in the uses or trusts thereof.

Trust estates subject to debts and charges as if the person held the like interest in the thing holden, as in the use thereof.

16. Where any person to whose use, or in trust for whose benefit another is or shall be seized of lands, tenements, or hereditaments, hath or shall have such inheritance in the use or trust, as that if it had been a legal right, the husband or wife of such person would thereof have been entitled to curtesy or dower, such husband or wife shall have and hold, and may by the remedy proper in similar cases, recover curtesy or dower of such lands, tenements, or hereditaments.

Trust estates subject to dower and curtesy.

17. Grants of rents, or of reversions, or remainders, shall be good and effectual without attornments of the tenants, but no tenant who, before notice of the grant, shall have paid the rent to the grantor, shall suffer any damage thereby.

Grants of rents, reversions, &c. good without attornments.

18. The attornment of a tenant to any stranger shall be void, unless it be with consent of the landlord of such tenant, or pursuant to, or in consequence of the judgment of a court of law, or the order or decree of a court of equity.

When attornment to a stranger shall be void.

19. All conveyances by commissioners and sheriffs hereafter to be made for lands sold in virtue of any decree or judgment of any court within this commonwealth, shall be, and they are hereby declared to be good and effectual, for passing the absolute title of such lands to the purchasers thereof, and all persons claiming under them, any law to the contrary notwithstanding; saving to the commonwealth, and to all and every person and persons, bodies politic and corporate, their respective heirs and successors, other than the parties to such conveyances, decrees or judgments, and those claiming under them, all such right, title, interest and demand as they, every or any of them, would have had in case this act had not been made.

Conveyances by commissioners and sheriffs under decrees and judgments of courts, effectual for passing the title.

20. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That nothing

Repealing clause.



herein contained shall be construed to affect any right which may have accrued or been vested before the commencement of this act.

Commencement.

21. This act shall commence in force from and after the passing thereof.

CHAP. 29.—An ACT reducing into one, the several acts concerning the manner of authenticating foreign deeds, records, and other instruments in writing.

(Passed December 8, 1792.)

Preamble.

1. Whereas the intercourse between this state and the other states in the Union, and between this state and foreign nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any foreign kingdom, state, nation or colony, beyond sea, and out of the jurisdiction of this state:

How foreign deeds and other instruments of writing must be authenticated to be admitted as evidence.

2. *Be it enacted by the general assembly*, That all such deeds if acknowledged by the party making the same, or proved by the number of witnesses requisite before any court of law, or the mayor, or other chief magistrate of any city, town, or corporation of the country in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of births and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the laws of such state, kingdom, nation, province, island or colony, and attested by a notary public, with a testimonial from the proper officer of the city, county, corporation or borough, where such notary public shall reside, or the great seal of such state, kingdom, province, island, colony, or place beyond sea, shall be evidence in all the courts of record within this commonwealth, as if the same had been proved in the said courts.

Repealing clause.

3. All and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed:

Proviso.

*Provided always*, That nothing in this act contained, shall be construed in any manner to alter the method of taking and certifying the privy examination of any *feme covert*, or in any other respect to alter or repeal the act, intituled, "*An act for regulating conveyances.*"

Commencement.

4. This act shall commence in force from the passing thereof.

CHAP. 30.—An ACT reducing into one, the several acts concerning wills, the distribution of intestates' estates, and the duty of executors and administrators.

(Passed December 13, 1792.)

Who may dispose of their lands and tenements by will.

1. *Be it enacted by the general assembly*, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title and interest in possession, reversion or remainder, which he hath, or at the time of his death shall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or issuing out of





them, so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses, subscribing their names in his presence.

*Devises of lands or tenements must be in writing. How to be attested.*

2. Saving to the widows of testators their dower in such lands, tenements, rents, or annuities, according to the laws, which shall not be prejudiced by any devise thereof.

*Saving to widows their dower.*

3. No devise so made, or any clause thereof, shall be revocable but by the testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing made as aforesaid. But every last will and testament, made when the testator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife *enscint* of a child, which shall be born, shall have no effect during the life of such after born child, and shall be void, unless the child die without having been married, or before he or she shall have attained the age of twenty-one years. When a testator shall leave children born, and his wife *enscint*, the posthumous child or children, if it be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably, out of the parts devised and bequeathed to them by the same will and testament.

*How such devises may be revoked.*

*A will made when the testator had no children, not to affect those born afterwards.*

*A posthumous child pretermitted in his father's will, to have the same portion of his estate as if he had died intestate.*

4. No person under the age of eighteen years, shall be capable of disposing of his chattels by will.

*No person under the age of 18 to dispose of his chattels by will. Rules concerning nuncupative wills.*

5. No nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home, and dies before he returns to such habitation; nor where the value exceeds thirty dollars, unless it be proved by two witnesses, that the testator called on some person present to take notice or bear testimony that such is his will, or words of the like import.

6. After six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will, unless the testimony, or the substance thereof, shall have been committed to writing within six days after making the will.

*Where they shall not be of force.*

7. No will in writing, or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing.

*How devises of chattels may be revoked.*

8. Any soldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done.

*Soldiers and seamen may dispose of their chattels as heretofore.*

9. If any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and compellable to appear, and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the testator's estate in case the will were not established, so much of his said

*Where bequests to the witnesses shall be void.*





shares shall be saved to him, as shall not exceed the value of the legacy bequeathed him.

District and county courts may take proof of wills, and grant administrations.

10. The several district, county, or corporation courts, shall have power to hear and determine all causes, matters, suits and controversies testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to say: If any testator shall have a mansion house, or known place of residence, his will shall be proved in the court of the district, county or corporation, wherein such mansion house, or place of residence is; if he have no such place of residence, and lands be devised in the will, it shall be proved in the court of the district, county, or corporation, wherein the lands lie, or in one of them where there shall be lands in several districts or counties; and if he hath no such known place of residence, and there be no lands devised, then the will may be proved, either in the court of the district, county, or corporation where the testator shall die, or that wherein his estate, or the greater part thereof, shall be; or such will may in any case, be proved in the general court.

Probat to be received when the will is exhibited.

But the validity thereof may be contested by any interested, within seven years thereafter.

11. When any will shall be exhibited to be proved, the court having jurisdiction as aforesaid, may proceed immediately to receive the probat thereof, and grant a certificate of such probat: If however, any person interested, shall within seven years afterwards appear, and by his bill in chancery contest the validity of the will, an issue shall be made up, whether the writing produced be the will of the testator or not, which shall be tried by a jury, whose verdict shall be final between the parties; saving to the court a power of granting a new trial for good cause, as in other trials; but no such party appearing within that time, the probat shall be forever binding; saving also to infants, *femes covert*, and persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities.

12. In all such trials by jury, the certificate of the oath of the witnesses at the time of the first probat, shall be admitted as evidence, to have such weight as the jury shall think it deserves.

How wills may be proved by witnesses residing out of the commonwealth.

13. It shall be lawful for any court when any will shall be produced to them for probat, and any witness attesting the same shall reside out of the commonwealth, to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, or to any notary public, mayor, or other chief magistrate of any city, town, corporation or county, where such witness may be found, authorizing the taking and certifying his attestation. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him; that the witness personally appeared before him and made oath, or solemn affirmation (as the case may require) that the testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he subscribed his name thereto in the presence of the testator, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.



14. Authenticated copies of wills proved according to the laws of any of the United States, or of countries without the limits of the same, and relative to any estate within this commonwealth, may be offered for probat in the general court; or where the estate so devised shall lie altogether in any one county or district, the court of such county or district, respectively, may admit to record any such authenticated copies, but the bond and oath of the executor or administrator with the will annexed, shall be changed from the bond and oath required by law in other cases, in such manner as to the said court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been.

Copies of wills proved in other states or countries, may be proved and recorded in the courts of this commonwealth.

The validity thereof may be contested as the originals might have been. The executors named therein entitled to probat.

15. All persons named as executors in any such will, shall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the said will, in the same manner as if the original will had been proved in such court. And where there shall be no executors named in the said will, or the executors therein named, shall all of them refuse the executorship, the court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration, with the will annexed, as if the original will had been proved in court.

And administration granted where there are none, or they refuse to qualify.

16. No nuncupative will shall be proved within fourteen days after the death of the testator, nor, until his widow (if any) and next of kin, have been summoned to contest the same, if they please.

When nuncupative wills may be proved.

17. If the general court, or any district, county, or corporation court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a testator in his custody, such court may summon such person, and by a proper process, compel him to produce the same.

Any person possessed of another's will may be compelled to produce it.

18. If the executors named in any will shall all refuse the executorship, or being required to give security as herein after mentioned, shall refuse or fail to give the same, which shall amount to a refusal of the executorship, in either case, the court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted, if there had been no will of the deceased.

Where executors refuse, administration with the will annexed shall be granted.

19. Before granting a certificate of the probat of any will, the executor, or administrator with the will annexed, (as the case may be,) shall in open court take the following oath, to wit: "*You shall swear that this writing contains the true last will of the within named, as far as you know or believe; and that you will well and truly perform the same by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels and credits will extend, and the law charge you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereto required.*" And shall also give bond, in such penalty, as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the court, with the following condition, to wit: "*The condition of this obligation is, that if the said, executor of the last will and testament (or administrator with the will annexed, of all the goods, chattels and credits) of, deceased,*

Executors and administrators shall be sworn. Oath of executor or administrator with the will annexed.

Bond.





do make a true and perfect inventory of all and singular, the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of \_\_\_\_\_, the said \_\_\_\_\_, or into the hands or possession of any other person or persons for \_\_\_\_\_, and the same so made, do exhibit into the \_\_\_\_\_ court of \_\_\_\_\_, at such time, as \_\_\_\_\_ shall be thereto required by the said court, and the same goods, chattels and credits, do well and truly administer according to law, and make a just and true account of actings and doings therein, when thereunto required by the said court; and further do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods, chattels and credits will extend, according to the value thereof, and as the law shall charge \_\_\_\_\_; then this obligation to be void, or else to remain in full force."

The whole penalty recoverable thereon.

When executors shall not be obliged to give security.

Their power before probat.

In what cases the court shall appoint a person to collect and preserve a decedent's estate.

Widow not satisfied with the provision made for her by her husband's will, may renounce her legacy and demand her dower of the slaves, and her proportion of the personal estate.

20. Which bond shall be payable to the judges or justices sitting in court, and their successors, and shall not become void upon the first recovery, but may be put in suit and prosecuted from time to time, by and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon.

21. But where any testator shall leave visible estate, more than sufficient to pay all his debts, and by will shall direct that his executors shall not be obliged to give security, in that case no security shall be required, unless the court shall see cause from their own knowledge, or the suggestions of creditors or legatees, to suspect the executors of fraud, or that the testator's personal estate will not be sufficient to discharge all his debts, and shall require security, when the same shall be given, before a certificate shall be granted, notwithstanding any directions to the contrary in the testator's will.

22. The power of executors over their testators' estates before probat of the will, is not hereby restrained, but shall continue as heretofore.

23. During any contest about a will, or during the infancy, or in the absence of an executor, or until a will which may have once existed, but is destroyed, shall be established; or whenever the court from any other cause shall judge it convenient, they may appoint any person or persons to collect and preserve the estate of any decedent, until a probat of his will, or *durante minore etate*, or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same when required, to the executors or administrators.

24. The bond and oath of the administrator or appointee in such cases, shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said courts or any of them shall seem necessary.

25. When any widow shall not be satisfied with the provision made for her by the will of her husband, she may within one year from the time of his death, before the general court, or court having jurisdiction of the probat of his will as aforesaid, or by deed executed in the presence of two or more credible witnesses, declare that she will not take or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will; and thereupon such widow shall be entitled to one-third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death they and their



increase, shall go to such person or persons, to whom they would have passed and gone if such declaration had not been made; and she shall moreover be entitled to such share of his other personal estate, as if he had died intestate, to hold to her as her absolute property; but every widow not making a declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will.

26. All original wills shall be recorded, and shall also remain in the clerk's office of the court wherein they are respectively proved, except during such time as they may be in any superior court, having been removed thither for inspection by *certiorari* or otherwise, after which they shall be returned to the said office.

Original wills to be recorded and remain in the clerk's office.

27. When any person shall die intestate as to his goods and chattels, or any part thereof, after funeral debts and just expenses paid, if there be no child, one moiety, or, if there be a child or children, one-third of the surplus shall go to the wife, but she shall have no more than the use for her life of such slaves as shall be in her share, and the residue of the surplus, and after the wife's death, the slaves in her share, or if there be no wife, then the whole of such surplus shall be distributed in the same proportions, and to the same persons, as lands are directed to descend in and by an act of the general assembly, intituled, "*An act to reduce into one the several acts directing the course of descents.*" Nothing in this act contained, shall be understood so as to compel the husband to make distribution of the personal estate of his wife dying intestate. Where any children of the intestate, or their issue, shall have received from the intestate, in his lifetime, any personal estate by way of advancement, and shall choose to come into the distribution with the other persons entitled, such advancement shall be brought into hotchpot with the distributable surplus.

Intestates' estates, how to be distributed amongst their representatives.

28. The general court, and the several courts respectively, shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate, as is herein before mentioned, as to the proof of wills, in respect to the intestate's place of residence, or death, or where the estate shall lie, and shall grant certificates for obtaining such administration, to the representatives who apply for the same; preferring first the husband or wife, and then such others as are next entitled to distribution, or one, or more of them, as the court shall judge will best manage and improve the estate.

Rules in granting administration of intestates' estates.

29. If no such person applies for administration within thirty days from the death of an intestate, or at the next succeeding court after the expiration thereof, the court may grant administration to any creditor or creditors who apply for the same, or to any other person the court shall, in their discretion, think fit.

30. But if any will shall afterwards be produced, and proved by executors, or the wife, or other distributee, who shall not have before refused, shall apply for the administration, the same shall be granted, in like manner, as if the former had not been obtained.

Wills may be proved after administration granted. Distributee may obtain administration, although it may have been previously granted to a creditor or other person. Administrator's oath.

31. Before granting a certificate for the administration of any estate, the person or persons to whom the same is granted, shall, in open court, take the following oath, to wit: "*You shall swear that , deceased, died without any will, as far as you know or believe, and that you will well and truly administer all and singular the goods, chattels, and credits of the said deceased, and pay his*





debts, as far as his goods, chattels and credits will extend, and the law require you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereunto required. So help you God."

Bond.

32. And shall also give bond, in a penalty at least equal to the value of the estate, and with such security as shall be approved by the court, with the following condition, to wit: "*The condition of this obligation is, that if the said administrator of the goods, chattels and credits of , deceased, do make a true and perfect inventory of all and singular, the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession, or knowledge of , the said , or in the hands or possession of any other person or persons, for , and the same so made do exhibit into the court, , when he shall be thereto required by the said court; and such goods, chattels and credits, do well and truly administer, according to law; and further do make a just and true account of his actings and doings therein, when thereto required by the said court; and all the rest of the said goods, chattels and credits, which shall be found remaining upon the account of the said administrator, the same being first examined and allowed by the justices of the said court for the time being, shall deliver and pay unto such persons respectively, as are entitled to the same by law; and if it shall hereafter appear, that any last will and testament was made by the deceased, and the same be proved in court, and the executor obtain a certificate of the probat thereof, and the said do, in such case, being required, render and deliver up his letters of administration, then this obligation to be void, else to remain in full force.*" Which bond shall be payable to the sitting justices, and their successors, and may be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators with the will annexed.

Securities how far chargeable in case of false pleading by executors or administrators.

Where good security shall not be taken, the justices liable.

33. But no security for any executor or administrator, shall be chargeable beyond the assets of the testator or intestate, by reason of any omission or mistake in pleading, or false pleading of such executor or administrator.

34. If any court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security, when taken, and not from subsequent accidents or discoveries thereof, the justices of such court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or, by the taking insufficient security, recoverable with costs, by action on the case, in any court of record.

How securities may be indemnified.

35. When securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the court for relief, the court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter security, or otherwise, as to them shall seem just and equitable.

Certificates of probat or administration attested by clerks of courts, as effectual as a probat or letters of administration in form.

36. All certificates of probat or administration, attested by the clerk, shall enable the executor or administrator to act, and may be produced or given in evidence in any court within this commonwealth, and be as effectual as any probat or letters of administration made out in due form: *Nevertheless*, The clerks of the courts





shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first justice of the court; which probat or letters shall be signed by such justice, and sealed with the district, county, or corporation seal, if the will be proved in a district, county, or corporation court, or with the seal of the commonwealth, if proved in the general court.

Clerks when required to make them out in due form.

37. The clerk of every district, county or corporation court, shall annually, on or before the first day of October, return to the clerk of the general court, a list of all certificates granted in his court for probats and administrations within the preceding year, in this form, (date of certificate,) (name of testator or intestate,) (names of securities,) (penalty of bond.) Which lists together with such certificates as are granted in the general court, shall be entered by the clerk of the general court, alphabetically, in books to be kept for that purpose.

Lists of probats and administrations in the general, district, and county courts, to be recorded in the general court.

38. Every court granting a certificate for a probat or administration, shall nominate three or more appraisers in every county or corporation, where any of the personal estate of the decedent shall be, who, being sworn before a justice of the peace for that purpose, shall truly and justly, to the best of their judgment, view and appraise all the personal estate to them produced, and shall return such appraisement under their hands, to the court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate, as had heretofore come to his hands.

Appraisers to be appointed.

39. Inventories and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against him, if other testimony be given that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement.

Inventories and appraisements, how far evidence for or against executors and administrators.

40. Each appraiser shall be entitled to fifty cents per day, for his attendance, to be paid by the executor or administrator, and charged to the estate.

Allowance to appraisers.

41. Executors and administrators, whether it be necessary for payment of debts, or not, shall, as soon as convenient after they are qualified, sell at public sale, all such goods of their testator or intestate, specific legacies excepted, as are liable to perish, be consumed or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales: If more be sold than will pay the debts and expenses, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much; and if after such assignment the obligor become insolvent so as the money be lost, without the fault or neglect of the assignee, then such loss shall be made good to the assignee, out of the decedent's estate.

Duty of executors and administrators in selling perishable goods, specific legacies excepted.

42. If such perishable goods be not sufficient for paying the debts and expenses, the executor or administrator shall proceed in the next place, to sell the other personal estate until the debts and expenses be all paid, having regard to the privilege of specific legacies.

In selling the other personal estate.

43. Nevertheless, if the testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts.

Where no appraisal shall be necessary.

Where the estate shall not be sold.



Dead victuals and liquors to remain for the use of the family.

44. The dead victuals and liquors, which at the death of any testator or intestate, shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family, without account thereof to be made. If however before its final consumption, any child shall leave the family, such child shall have a right to carry with him or her, an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family, may also be killed for that use, at any time before the sale, division, or distribution of the estate.

Sale and conveyance of lands devised to be sold, by whom to be made.

45. The sale and conveyance of lands devised to be sold, shall be made by the executors, or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it. But if none of the executors named in such will shall qualify, or after they have qualified, shall die before the sale and conveyance of such lands, then in those cases, the sale and conveyance thereof, shall be made by such person or persons to whom administration of the testator's estate with the will annexed, shall be granted.

Rules concerning servants, slaves and crops.

46. If any person shall die after the first day of March, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop, shall be continued on the plantations in the occupation of the decedent until the last day of December following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors and administrators, subject to debts, legacies and distribution; the levies and taxes, their tools, the expense of feeding them and their families to that time, and delivering them well clothed, being first deducted. And if such slaves or servants be held by the testator or intestate for his or her life only, in that case the executor or administrator shall be obliged to deliver, to those who are entitled in remainder or reversion, three barrels of Indian corn for every such servant or slave, old and young, to be allowed in their accounts of administration.

47. If a testator or intestate shall die after the first day of March, all the emblements of his lands which shall be severed before the thirty-first day of December following, shall in like manner be assets in the hands of the executor or administrator, but all such emblements growing on the lands on that day, or at the time of the death of the testator or intestate, if that event happen after the thirty-first day of December, and before the first day of March, shall pass with the land to the heir, devisee, reversioner, or remainderman.

Where tenant for life of land or slaves let or hired to another, dies after first March.

48. If there be tenant for life of lands or slaves let or hired to another, at the death of such tenant for life, if that event happen after the first day of March, the lessee or person hiring, shall hold the lands and slaves until the last day of December following, paying rent or hire to that time, and in the case of slaves, delivering them well clothed.

To whom the rent shall be paid, where tenant for life of lands or slaves dies before it becomes due.

49. The rent of land or hire of slaves shall be apportioned between the executor or administrator of him, who, having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the lands and slaves, as





heir, devisee, or person in reversion or remainder, unless in the case of a devisee, the contrary be directed by the testator.

50. The appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will.

Debt not extinguished by appointing a debtor executor.

51. No distribution shall be made of an intestate's estate until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the intestate, and the costs attending the recovery of such debts.

When distribution of intestate's estate is to be made.

52. Executors and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased, and other their administration, and may be allowed such recompense for their personal trouble, as the court on passing their accounts, shall judge reasonable.

Executors or administrators to be allowed all just expenses.

And a reasonable recompense for their trouble.

53. The executors or administrators of a guardian, of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an idiot, or a lunatic, or the estate of a dead person, committed to their testator or intestate by a court of record, shall pay so much as shall be due from the testator or intestate, to the ward, idiot, or lunatic, or to the legatees, or persons entitled to distribution, before any proper debt of their testator or intestate.

Executors or administrators of guardians, committees, or of executors or administrators, to pay debts due from their testators to wards, idiots, legatees, &c. before any other debts.

54. Where any person shall die seized of lands held for life of another, such person may, by his or her last will and testament in writing, made and proved, as is herein before directed for the devise of lands, devise all his interest in such lands, which shall, if necessary, be assets in the hands of such devisee. And if no such devise be made, such lands for the residue of the term shall be assets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee simple; and if there be no special occupant, it shall go to the executors or administrators of the person so dying seized, and be assets in their hands, subject to debts, legacies, and distribution.

Tenant of lands held for the life of another, may devise his interest held thereon.

How it shall be disposed of where there is no such devise.

55. Executors or administrators may sue, or be sued upon all judgments, bonds or other specialties, bills, notes or other writings of their testators or intestates, whether the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts.

In what cases executors or administrators may be sued.

56. If any suit shall be brought against any executor or administrator for the recovery of a debt due upon an open account, it shall be the duty of the court before whom such suit shall be brought, to cause to be expunged from such account, every item thereof which shall appear to have been due five years before the death of the testator or intestate. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned or out of this commonwealth, who may be plaintiffs in such suits, three years after their several disabilities removed; and if any person shall wilfully postdate any such account, he shall forfeit and pay ten-fold the amount of the articles so postdated; to be recovered by action of debt in any court of record, where the penalty incurred shall exceed twenty dollars, and by petition where the penalty incurred shall be under that sum.

In suits against executors or administrators on open accounts, courts to expunge all items due five years before the death of the testator.

Penalty for postdating such accounts.



Within what time actions of debt must be brought, and writs of *scire facias* issued, against executors or administrators, on judgments against their testators or intestates.

57. No action of debt shall be brought against any executor or administrator upon a judgment obtained against his testator or intestate, nor shall any *scire facias* be issued against any executor or administrator to revive such judgment after the expiration of five years from the qualification of his executor or administrator, and all such judgments after the expiration of five years, upon which no proceedings shall have been had, shall be deemed to have been paid and discharged. Saving to all persons *non compos mentis*, *femes covert*, infants, imprisoned, or out of this commonwealth, who may have been entitled to the benefit of any such judgment, three years after their several disabilities removed.

Executors or administrators may maintain trespass for goods taken from their testators or intestates.

58. Actions of trespass may be maintained by or against executors or administrators, for any goods taken or carried away in the lifetime of the testator or intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets.

Duty of executors of executors, as to the will of the first testator.

59. Executors of executors shall do and perform all things in the execution of the will of the first testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued.

Executors or administrators of executors or administrators, chargeable for waste done by their testators or intestates.

60. The executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his testator or intestate might have been.

How the estates of deceased persons are to be disposed of when the executors refuse to qualify, and no person applies for administration.

61. If all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give or be unable to procure the same, and no person will apply for administration with the will annexed: or, if no person will apply for administration of the goods and chattels of any intestate, it shall be lawful for the general court, or other court having jurisdiction of such probat or administration, as herein before mentioned, after the expiration of three months from the death of the testator or intestate, to order the sheriff or other officer of the county or corporation, to take the estate into his possession, and make sale of so much thereof by public auction, as the payment of debts shall make necessary, or as shall be perishable, or be directed by will to be sold: And all sales and conveyances, *bona fide* made by the sheriff or his deputies, or other officer, in consequence of such order, shall be as effectual to the purchasers, as if they had been made by the testator or intestate in his lifetime. The estate shall be sold upon such credit as the court shall direct, and upon public notice previously given, the purchasers giving bond and good security for payment according to the limited time of credit. The sheriff or other officer may sue, if necessary, for recovery of debts, or of goods and chattels, and shall make a true and perfect inventory of the whole estate, and an account of sales, and shall return the same, together with the bonds, to the court by whom he was ordered to sell without delay, who shall first direct the payment of such debts as shall be proved before them, and proportion the assets amongst the creditors, without regard to the dignity of debts, where there shall not be sufficient to pay the whole; but if there be sufficient, they may order the surplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will or of this act.





Whereupon the sheriff or deputy, or other officer, shall assign the bonds and deliver the estate remaining unsold, to the creditors or others according to such order, retaining nevertheless his commissions, which shall be the same upon the estate by him sold, as is allowed for goods taken in execution; and where the whole estate is not sold, he shall moreover be allowed his reasonable expenses and disbursements in the care of the part unsold.

62. All sales and conveyances of lands heretofore *bona fide* made by a sheriff or other officer, under any order of court where the lands had been devised to be sold, and the executor had refused to act, are hereby confirmed and made effectual against all persons claiming under the testator.

Former sales and conveyances by sheriffs of lands devised to be sold, where the executor refused to act, confirmed.

63. All and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That nothing in this act contained, shall be construed to affect any right which may have accrued or been vested before the commencement of this act.

Repealing clause.  
Proviso.

64. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 31.—An ACT to reduce into one, the several acts directing the course of descents.

(Passed December 8, 1792.)

1. *Be it enacted by the general assembly*, That henceforth when any person having title to any real estate of inheritance, shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course; that is to say:

Real estate of inheritance of persons dying intestate, to descend in parcenary to their kindred.

2. To his children or their descendants, if any there be:

Course of descents.

3. If there be no children, nor their descendants, then to his father:

4. If there be no father, then to his mother, brothers and sisters, and their descendants, or such of them as there be:

5. *Provided nevertheless*, That where an infant shall die without issue, having title to any real estate of inheritance derived by purchase or descent, from the father, neither the mother of such infant nor any issue which she may have by any person, other than the father of such infant, shall succeed to or enjoy the same, or any part thereof, if there be living any brother or sister of such infant on the part of the father, or any brother or sister of the father, or any lineal descendant of either of them. Saving, however, to such mother any right of dower which she may claim in the said real estate of inheritance.

6. *And provided also*, That where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the mother, neither the father of such infant, nor any issue which he may have by any person other than the mother of such infant, shall succeed to, or enjoy the same or any part thereof, if there be living any brother or sister of such infant on the part of the mother, or any brother or sister of the mother, or any lineal descendant of either of them. Saving, however, to such father the right which he may have as tenant by the curtesy in the said estate of inheritance.

7. If there be no mother, nor brother, nor sister, nor their descendants, and the estate shall not have been derived either by pur-





chase or descent, from either the father or the mother, then the inheritance shall be divided into two moieties, one of which shall go to the paternal, the other to the maternal kindred, in the following course; that is to say:

8. First, to the grandfather.

9. If there be no grandfather, then to the grandmother, uncles and aunts on the same side, and their descendants, or such of them as there be.

10. If there be no grandmother, uncle nor aunt, nor their descendants, then to the great grandfathers, or great grandfather, if there be but one.

11. If there be no great grandfather, then to the great grandmothers, or great grandmother, if there be but one, and the brothers and sisters of the grandfathers and grandmothers, and their descendants, or such of them as there be.

12. And so on in other cases without end; passing to the nearest lineal male ancestors, and for the want of them to the lineal female ancestors in the same degree, and the descendants of such male and female ancestors, or to such of them as there be.

None except the children of the intestate to take, unless in being at the intestate's death.

Rule where the inheritance is to go by moieties to the paternal and maternal kindred.

13. But no right in the inheritance shall accrue to any persons whatever, other than to children of the intestate, unless they be in being, and capable in law to take as heirs at the time of the intestate's death.

14. And where for want of issue of the intestate and of father, mother, brothers and sisters, and their descendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred, if there should be no such kindred on the one part, the whole shall go to the other part; and if there be no kindred either on the one part or the other, the whole shall go to the wife or husband of the intestate. And if the wife or husband be dead, it shall go to her or his kindred in the like course, as if such wife or husband had survived the intestate, and then died entitled to the estate.

Where some are of the whole and others of the half blood.

15. And in the cases before mentioned, where the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood to the intestate, and other part of the half blood only, those of the half blood shall inherit only half so much as those of the whole blood: But if all be of the half blood, they shall have whole portions, only giving to the ascendants (if any there be) double portions.

Where they shall take *per capita*.

16. And where the children of the intestate, or his mother, brothers and sisters, or his grandmother, uncles and aunts, or any of his female lineal ancestors living, with the children of his deceased lineal ancestors, male and female in the same degree, come into the partition, they shall take *per capita*, that is to say, by persons; and where a part of them being dead, and a part living, the issue of those dead have right to partition, such issue shall take *per stirpes*, or by stocks, that is to say, the share of their deceased parent.

Where *per stirpes*.

Children receiving real estate in advancement, may bring it into hotchpot, and come into partition.

17. And where any of the children of the intestate, or their issue, shall have received from the intestate in his lifetime, any real estate by way of advancement, and shall choose to come into partition with the other parceners, such advancement shall be brought into hotchpot with the estate descended.

Alienage of an ancestor no bar in title by descent. Bastards capable of inheriting and

18. In making title by descent, it shall be no bar to a party that any ancestor through whom he derives his descent from the intestate, is, or hath been an alien. Bastards also shall be capable of



inheriting or of transmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of such mother.

19. Where a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, shall be thereby legitimated. The issue also in marriages deemed null in law, shall nevertheless be legitimated.

When bastards shall be legitimated.

Issue in marriages null in law, legitimate.

20. Whensoever any lands shall descend from a person dying intestate to two or more heirs, any one of whom shall be an infant, *feme covert*, *non compos mentis*, or beyond sea, and the dividend of each heir shall not exceed the value of one hundred dollars, in the opinion of any court herein after mentioned, it shall be lawful for the high court of chancery, or the court of the county or corporation in which such lands, or the greater quantity of them lie, to direct the sale of the said lands, and the distribution of the money arising therefrom according to the rights of each claimant: *Provided always*, That each heir residing within this commonwealth, shall be first duly summoned, to shew cause if any he can against such sale; and where any heir shall reside without this commonwealth, the court shall make an order for publication, which order being inserted in the Virginia gazette for eight weeks successively, shall be considered as a summons.

When lands of persons dying intestate may be sold.

21. One parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division or matter to be made or done, concerning lands which shall have descended to them.

One parcener may maintain waste against another. Rights of parceners equal in elections, divisions, &c.

22. All and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing herein contained shall be construed in any wise to affect any right, title, interest or claim to or in any estate in lands or tenements whatsoever, accrued before the commencement of this act, but the same shall be, and remain in the same condition, as if this act had never been made.

Repealing clause.

Proviso.

23. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 32.—An ACT to reduce into one, all acts and parts of acts relating to dower.

(Passed December 6, 1792.)

1. *Be it enacted by the general assembly*, That the widow of any person dying intestate, or otherwise, shall be endowed of one full and equal third part of all the lands, tenements and other real estate, whereof her husband, or any other to his use, was seized of an estate of inheritance, at any time during the coverture, to which she shall not have relinquished her right of dower, by deed executed, acknowledged, and recorded, in the manner prescribed by law for that purpose.

Widows entitled to dower.

2. And till such dower shall be assigned, it shall be lawful for her to remain and continue in the mansion house, and the messuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the same; any law, usage or custom, to the contrary in any wise, notwithstanding.

And may remain in the mansion house and plantation until dower be assigned.





Remedy in case they are in the mean time de-forsed thereof.

Damages for de-forsing widows of their dower.

What exception of the tenant shall not abate a writ of dower.

Judgment by default against the husband, shall not bar his widow of her dower.

Remedy where the widow is endowed to the prejudice of the heir within age.

Judgment by default against a widow impleaded for her dower, shall not bar her right.

3. And if she be thereof in the mean time deforced, she shall have a *vicontiel writ*, in the nature of a writ *de quarentina habenda*, directed to the sheriff; whereupon such proceedings and speed shall be used as hath or might have been used on the said writ of quarentine.

4. Whosoever shall deforce widows of their dowers of the lands whereof their husbands died seized, or of such mansion house or plantation, if the same widows shall afterwards recover by plea, they that be convicted of such wrongful deforcement, shall yield damages to the same widows; that is to say, the value of the whole dower to them belonging, from the time of the death of their husbands, unto the day that the said widows by judgment have recovered seizin of their dower.

5. In a writ of dower called *unde nihil habet*, the writ shall not abate by the exception of the tenant, because the demandant hath received her dower of another man, before her writ purchased, unless he can shew that the dower so received was in satisfaction of her right of dower in the lands whereof she demands dower.

6. In case where the husband being impleaded for land by default, the woman after his death demanding her dower, shall be heard, and if it be alledged against her, that her husband lost the land whereof the dower is demanded by judgment, whereby she ought not to have dower, and then it be enquired, by what judgment, and it be found it was by default, whereupon the tenant must answer, then it behoveth the tenant to answer further, and to shew that he had right, and hath in the aforesaid lands, according to the form of the writ that the tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the tenant shall go quit, and the wife shall recover nothing of her dower; which thing if he cannot shew, the wife shall recover her dower.

7. And where sometime it chancess that a woman not having a right to demand dower, the heir being within age, doth purchase a writ of dower against a guardian, and the guardian endoweth the woman by favor, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her dower in prejudice of the heir, it is provided that the heir when he cometh to full age, shall have an action to demand the seizin of his ancestor against such a woman, like as he should have against any other de-forscer; yet so that the woman shall have her exception saved against the demandant, to shew that she had right to her dower; which if she can shew, she shall go quit, and retain her dower; and if not, the heir shall recover his demand.

8. In like manner the woman shall be aided, if the heir or any other do implead her for her dower, if she lose her dower by default, in which case, the default shall not be so prejudicial to her, but that she shall recover her dower, if she have right thereto; and, she shall have this writ: "*Command A. that justly, &c. he render to B. who was the wife of F. so much land, with the appurtenances in C. which she claims to be her reasonable dower, (or of her reasonable dower,) and that the aforesaid A. do forceth her, &c.*" And, to this writ the tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before.



9. Also widows may bequeath the crop of their ground, as well of their dowers, as of other their lands and tenements. Widows may bequeath the crops of their dower lands. How a wife may forfeit her right of dower.

10. But if a wife willingly leave her husband, and go away and continue with her adulterer, she shall be barred forever of action to demand her dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly and without coercion, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action.

11. Also, if any estate be conveyed by deed or will, either expressly or by avowment, for the jointure of the wife, in lieu of her dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such acts only as would forfeit her dower at the common law, such conveyance shall bar her dower of the residue of the lands, tenements or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either case, the widow may, at her election, waive such jointure, and demand her dower. Where a jointure shall bar a widow of her dower.

12. When any conveyance intended to be in lieu of dower, shall, through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her dower, the estate and interest conveyed to such widow, with intention to bar her dower, shall thereupon cease and determine. Widows not to have both their dower and the lands intended to be in lieu thereof.

13. If a widow be lawfully expulsed or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements or hereditaments, whereof she was before dowable, as the same lands, tenements or hereditaments, so evicted and expulsed, shall amount and extend unto. How they shall be recompensed when evicted of their jointures, or any part thereof.

14. All and every other act and acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed: *Provided*, Nothing in this act contained, shall be construed to affect any right which may have accrued, or been vested, prior to the commencement of this act. Repealing clause. Proviso.

15. This act shall commence in force from the passing thereof. Commencement.

CHAP. 33.—An ACT to reduce into one, the several acts concerning guardians, orphans, committees, infants, masters and apprentices.

(Passed December 11, 1792.)

1. *Be it enacted by the general assembly*, That any father, even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a guardian in common socage hath, and authorize him by action of ravishment of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the ward's estate, real and personal, and Fathers may by deed or will dispose of the custody and tuition of their infant children. Such guardians to have the same powers as guardians in common socage.





prosecute and maintain any such action and suits concerning the same, as a guardian in common socage may do.

High court of chancery and county courts empowered to control guardians and determine disputes between them and their wards.

To require security of them. And to displace them and appoint others when necessary.

Courts shall take security of guardians appointed by them.

If a guardian fails or refuses to give security, the court may appoint a curator.

Guardians appointed by the court to deliver inventories of their wards' estates. Their accounts to be exhibited to the court once in every year, or oftener if required.

To be examined, and if approved to be recorded.

Exceptions thereto how to be made.

The court may compel a guardian to give supplemental security.

2. The high court of chancery, generally, and the court of every county and corporation in chancery, within the limits of their jurisdiction shall have power from time to time to control guardians, and hear and determine all matters between them and their wards; to require security of any guardian in socage, or statutory guardian, when that caution shall seem necessary for prevention of any damage his ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance and education of wards, and preservation of their estates, and for the conduct of guardians.

3. Every court appointing a guardian, shall take bond of him, with sufficient security for the faithful execution of his office; and if any court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties' affidavit, as otherwise, the ward by an action on the case against the judges or justices so making default, may recover so much of the damages which the guardian and security shall be answerable for, as these shall be unable to pay.

4. If any guardian refuse, or be unable to give the security required of him, the court may put the estate into the hands of a curator, the fittest they can prevail upon, to undertake the care of it, to be accountable to them, and in that case shall not be sponisible for his ability.

5. Every guardian or curator to be appointed by any court, shall, at the term or session next afterwards deliver into such court, an inventory upon oath of all the estate which he shall have received, to be entered of record in a separate book; and such guardian or curator, and every guardian heretofore appointed, shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in September, or at the next session, if there be none in that month, or oftener, if he shall be specially required, accounts of the produce of the estate of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered.

6. The court at any time when they shall know or have cause to suspect that the surety of a guardian is failing, may require and compel such guardian to give supplemental security, or if he refuse or neglect to do so, may displace him.





7. A guardian who shall not deliver in such inventory and render such accounts as aforesaid, shall by order of the court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty, or be displaced; for which purpose the summons or other process from a county or corporation court may be directed to, and shall be executed by the sheriff of any other county wherein the guardian may be found; and every judge or justice of the court sitting therein, at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly, shall be amerced.

*Proceedings against guardians failing to deliver in inventories and accounts.*

*Penalty on the justices for neglect.*

8. If the disbursements of the guardian being suitable to the estate and circumstances of the ward, shall exceed the profits of his estate in any year, the balance, with the allowance of the court, may be debited in the account of a succeeding year, and the balance appearing on the contrary side may be put out to interest, for the benefit of the ward, upon such security as the court shall approve, or the guardian, if it remain in his hands, shall account for the interest, to be computed from the time his accounts were or ought to have been passed.

*Balance due to the guardian for disbursements to be debited in the account of the ensuing year.*

*Balance due to the ward, how to be disposed of.*

9. If any surety for a guardian by petition to the court before whom they were bound, setting forth that he apprehends himself to be in danger of suffering thereby, shall pray that he may be relieved, the court, after a summons to answer the petition, shall have been served upon the guardian, or a copy of such summons shall have been left at the place of his usual abode, shall order him to give counter security, or to deliver the ward's estate into the hands of the surety, or some other person, and in that case taking sufficient security, or may make such other order for the relief of the petitioner, as to them shall seem just.

*Securities for guardians in danger of suffering, how to be relieved.*

10. The estate of a guardian not under a specific lien, shall, after the death of the guardian be liable for whatsoever may be due from the guardian on account of his guardianship to his ward, before any other debt due from such guardian.

*When a guardian dies, the debt due to his ward to be first paid.*

11. Every orphan who hath no estate, or not sufficient for a maintenance out of the profits, shall by order of the court of the county or corporation in which he or she resides, be bound apprentice by the overseers of the poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to some master or mistress, who shall covenant to teach the apprentice some art, trade or business, to be particularized in the indenture, as also reading and writing, and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of such apprentices shall be filed in the office of the clerk of the county, and not transferable to any person whatsoever, without the approbation of the court.

*Poor orphans to be bound apprentices by the overseers of the poor.*

12. Any guardian may with the approbation of that court in which his appointment shall be recorded, and not otherwise, bind his ward apprentice to such person for learning such art or trade, and with such covenants on the part of the master or mistress, as the said court shall direct; and every such apprentice with the like approbation, or any apprentice bound by his father, may with the approbation of the court of that county, in which the father shall reside, after he shall be sixteen years of age, agree to serve until he shall be twenty-four years of age, or any shorter time, and such agreement entered on record shall bind him.

*Guardians may bind out their wards as apprentices, with the approbation of the court.*

*Apprentices over sixteen years of age, may bind themselves to serve until they are twenty-four.*



Where infants are seized of lands, &c. in trust, deeds executed by their guardians by order of the court of chancery, shall be as valid as if executed by the trustees when of full age.

Guardians may make or take surrender of leases, or make new leases, under the direction of the court of chancery.

County and corporation courts to hear the complaints of apprentices against their masters.

And of masters against their apprentices.

Infants may sue by their next friends. Corporation courts to have the same powers under this act as the county courts.

Repealing clause.

Commencement.

13. Where any person under the age of twenty-one years is, or shall be seized or possessed, of any lands, tenements, or hereditaments, in trust or by way of mortgage, the guardian of such infant upon petition of one or more of the parties interested to the high court of chancery, by order of such court, made after hearing the parties, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of full age, might have executed or performed; and such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed.

14. Also the said court may in like manner empower such guardian to make or take a surrender of a former lease, and to take or make a new lease, as the case may require, and as it shall seem most to the advantage of the infant, out of whose estate any fine that may be advanced, and all other just expenses that may be incurred in order to obtain a new lease to him, shall be reimbursed; and the new lease shall not only be chargeable with such fine and expenses, but shall remain subject to all incumbrances which the lease surrendered would have been subject to.

15. The court of every county, city or borough, shall at all times receive the complaints of apprentices, being citizens of any one of the United States of America, who reside within the jurisdiction of such court, against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment or lodging, or want of instruction, and may hear and determine such cases in a summary way, making such orders thereupon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them to other masters or mistresses, when it shall seem necessary; and may also, in the same manner, hear and determine complaints of masters or mistresses against their apprentices, for desertion without good cause.

16. In every case where such as be within age may sue, their next friends shall be admitted to sue for them.

17. *And be it further enacted*, That the courts of hustings in the cities of Williamsburg and Richmond, and borough of Norfolk, and all other incorporated towns, shall have the same power as is hereby given to the county courts.

18. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

19. This act shall commence in force from and after the passing thereof.

CHAP. 34.—An ACT reducing into one, the several acts to prevent unlawful gaming.

(Passed December 8, 1792.)

All promises, agreements, securities, and conveyances for gaming debts, void.

1. *Be it enacted by the general assembly*, That all promises, agreements, notes, bills, bonds or other contracts, judgments, mortgages, or other securities or conveyances whatsoever, made, given, granted, drawn, or entered into, or executed by any person or persons whatsoever before or after passing this act, where the whole or any part of the consideration of such promise, agreement, conveyances or securities, shall be for money or other valuable thing whatsoever, won, laid or betted at cards, dice, tables, tennis, bowles, or any other game or games whatsoever, or at any horse-race, cock-





fighting, or any other sport or pastime, or on any wager whatsoever, or for the reimbursing or repaying any money, knowingly lent or advanced, at the time and place of such play, horse-racing, cock-fighting, or other sport or pastime, to any person or persons so gaming, betting or wagering, or that shall at such time and place, so play, bet or wager, shall be utterly void, frustrate, and of none effect, to all intents and purposes whatsoever; any law, custom or usage, to the contrary thereof, in any wise, notwithstanding.

2. Any conveyance or lease of lands, tenements or hereditaments, sold, demised or mortgaged, and any sale, mortgage, or other transfer of slaves or other personal estate, to any person, or for his use, to satisfy or secure money, or other thing by him won of, or lent, or advanced to the seller, lessor or mortgagor, or whereof money or other thing so won, or lent, or advanced, shall be part or all of the consideration money, shall inure to the use of the heirs of such mortgagor, lessor, bargainor or vendor, and shall vest the whole estate and interest of such person in the lands, tenements or hereditaments, so leased, mortgaged, bargained, or sold, and in the slaves or other personal estate so sold, mortgaged, or otherwise transferred, to all intents and purposes, in the heirs of such lessor, bargainor, mortgagor or vendor, as if such lessor, bargainor, mortgagor, or vendor had died intestate.

Real estate under any incumbrance for gaming debts, shall devolve to the next heirs.

3. If any person or persons whatsoever, at any time hereafter within the space of twenty-four hours, by playing at any game or games whatsoever, or by betting on the sides or hands of such as do play at any game or games, shall lose to any one or more person or persons so playing or betting, the sum or value of seven dollars or more in the whole, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying or delivering the same, shall be at liberty within three months then next following, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt founded on this act, to be prosecuted in any court of record within this commonwealth, where the sum or value thereof shall be cognizable; in which action it shall be sufficient for the plaintiff to alledge that the defendant is indebted to the plaintiff, or received to the plaintiff's use, the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him according to the form of this act, without setting forth the special matter; and in case the party losing such money or other thing as aforesaid, shall not within the time aforesaid really and *bona fide*, without covin or collusion, sue, and with effect prosecute for the money or other thing so lost and paid or delivered, it shall and may be lawful to and for any other person or persons, by any such action or suit as aforesaid, to sue for and recover the same, and treble the value thereof with costs of suit, against such winner or winners as aforesaid; the one moiety thereof to the use of the person or persons suing for the same, and the other moiety to the use of the parish where such offence shall be committed; and every person who by virtue of this present act, shall or may be liable to be sued for monies or other things so won as aforesaid, shall be obliged and compellable to answer upon oath, such bill or bills as shall be preferred against him or them, for discovering the money or other things so won at play as aforesaid.

When and how any person losing money at gaming may recover it from the winner.

If he does not sue within three months, any other person may, and recover the money paid, and treble the value.

The defendants compellable to answer on oath, bills in equity for discovering what was won.



But discharged by  
repayment there-  
of, from the penal-  
ty.

4. *Provided always*, That upon discovery and repayment of the money, or other thing so to be discovered and repaid as aforesaid, the person and persons discovering and repaying the same, shall be acquitted, indemnified, and discharged from any further or other forfeiture, punishment or penalty which he or they may have incurred by the playing for and winning such money or other thing so discovered and repaid.

Penalties for  
playing at public  
houses.

5. And to prevent gaming at ordinaries and other public places, which must be often attended with quarrels, disputes, and controversies, the impoverishment of many people and their families, and the ruin of the health, and corruption of the manners of youth, who upon such occasions frequently fall in company with lewd, idle and dissolute persons, who have no other way of maintaining themselves but by gaming: *Be it further enacted*, That if any person or persons shall at any time play in an ordinary, race-field, or any other public place, at any game or games whatsoever, except billiards, bowles, backgammon, chess, or draughts, or shall bet on the sides or hands of such as do game, every such person upon conviction thereof, before any justice of peace in any county within this commonwealth, by the oath of one or more credible witness or witnesses, (which oath the said justice is hereby empowered to administer) or by the view of such justice, or the confession of the party accused, shall forfeit and pay twenty dollars, to be levied by distress and sale of the offender's goods, by warrant under the hands of the justice before whom such conviction shall be, and for the use of the poor of the parish wherein such offence shall be committed; and moreover every person so convicted, shall be committed to the county jail, there to remain until he, she or they give sufficient security for his, her or their good behaviour for twelve months next after such conviction.

For losing or win-  
ning more than  
twenty dollars in  
twenty-four hours.

6. If any person, by playing or betting at any game or wager whatsoever, at any time within the space of twenty-four hours, shall lose or win to or from another, a greater sum, or any thing of greater value than twenty dollars, the loser and winner shall be liable to pay one half of the entire sum above the said sum of twenty dollars which he shall so win or lose; and upon information thereof made to any county court, and due proof thereof had, such county court shall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to lessening the levy of the county wherein such offence shall be committed.

Gamesters having  
no visible means  
of supporting  
themselves, may  
be bound to good  
behaviour, or com-  
mitted.

7. And whereas divers lewd and dissolute persons live at great expenses, having no visible estate, profession, or calling to support them, but by gaming only: *Be it therefore enacted*, That it shall be lawful for any two justices of peace in any county or corporation, to cause to come or be brought before them, every person within their respective limits, whom they shall have just cause to suspect to have no visible estate, profession or calling to maintain himself by, but for the most part supporting himself by gaming; and if such person shall not make it appear to such justices, that the principal part of his expenses is not maintained by gaming, they shall require of him sufficient securities for his good behaviour for the space of twelve months; and on refusal thereof, shall commit him to the common jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other





valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same.

8. And to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any person or persons shall assault and beat, or shall challenge or provoke to fight, any person or persons whatsoever, upon account of any money or other thing won by gaming or betting, the person and persons so assaulting, beating, challenging or provoking to fight, being thereof convicted, shall forfeit to the party grieved thirty dollars, to be recovered with costs by action of debt in any county court, and moreover shall be liable to the action of the party grieved at the common law.

Penalty on persons assaulting or challenging others on account of money, &c. won by gaming.

9. *And be it further enacted*, That if any person or persons whatsoever, do or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at or with cards, dice, or any other game or games, or in or by bearing a share or part in the stakes, wagers or adventures, or in or by betting on the sides or hands of such as do or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment, or information, shall forfeit five times the value of the money or other thing so won, and shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person or persons suing for the same, by action of debt in any court of record in this commonwealth, having cognizance thereof.

Punishment of cheats.

10. *Provided always*, That any person aggrieved by the judgment of any justice of peace upon any conviction for any of the offences in this act cognizable before him, may appeal to the next court to be held for the county where such person shall be convicted, but shall give reasonable notice of such appeal to the party prosecuting him or her, and shall also enter into recognizances with two sufficient securities, before some justice of the county wherein the judgment was given, on condition to try such appeal at the next court held for the same county after the entering such appeal, which shall be by the said court then heard and finally determined: *Provided also*, That no such judgment shall be set aside for want of form, wherein it shall appear to the court, that the facts were sufficiently proved at the trial, nor shall any judgment be removed or removable by appeal, or any writ or process whatsoever into the district court.

Liberty of appeal from the judgment of the justice to the county court.

11. All and every keeper or keepers, exhibitor or exhibitors of either of the gaming tables, commonly called A. B. C. or F. O. tables, or of a faro bank, or of any other gaming table or bank of the same, or the like kind under any denomination whatever, shall be deemed and treated as vagrants; and moreover it shall and may be lawful for any justice of the peace or magistrate of any corporation court, by warrant under his hand, to order any such gaming table to be seized and publicly burnt or destroyed.

Keepers of A. B. C. or F. O. tables, or faro banks, or other like tables or banks, to be deemed vagrants.

And their tables to be destroyed.

12. No person, in order to raise money for himself or another, shall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever shall offend herein shall forfeit the whole

Private lotteries prohibited.





sum of money proposed to be raised by such lottery, raffling, or playing, to the use of the commonwealth.

This act to be given in charge to grand juries.

13. The presiding justice as well in the district as in all the inferior courts of law in this commonwealth, shall constantly give this act in charge to the grand juries of their courts, at the times when such grand juries shall be sworn.

Repealing clause. Proviso.

14. Every act or clause in any act concerning any matter within the purview of this act, shall be, and is hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement.

15. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 35.—An ACT against champerty.

(Passed December 8, 1792.)

Who are champertors.

1. *Be it enacted and declared by the general assembly*, That champertors be they that move pleas and suits, and cause them to be moved by their own procurement or by others, and sue them at their own proper costs and charges, to have a part of the land in variance, or part of the gains; and those who are convicted thereof by the verdict of a jury, shall be punished by imprisonment and amercement at the discretion of the jury before whom they shall have been found guilty, and such amercement and imprisonment shall be ascertained at the time of such conviction.

How they shall be punished.

Commencement.

2. This act shall commence in force from and after the passing thereof.

#### CHAP. 36.—An ACT against hog stealing.

(Passed December 8, 1792.)

Punishment of hog stealers, not being slaves, for the first offence.

1. *Be it enacted by the general assembly*, That if any person not being a slave, shall steal any hog, shoat, or pig, he or she shall for the first offence, receive on his or her bare back, twenty-five lashes well laid on, at the public whipping post of the county where he or she shall be convicted, or pay thirty dollars, to the use of the same county, towards lessening that county levy, and shall moreover pay eight dollars, for every such hog, shoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with costs at the suit of the informer, by action of debt in any county court within this commonwealth; and in all suits to be brought, or informations filed, against any person not being a slave, for hog stealing, it shall be lawful for the court to rule the defendant to give special bail, and to commit him or her to prison, until he or she shall give such bail.

When sued for the penalty, the defendant may be ruled to give special bail.

Punishment for the second offence.

2. And if any person other than a slave, shall offend a second time, and be thereof convicted, he or she shall stand two hours in the pillory, on a court day, at the courthouse of the county where such conviction shall be, and have both ears nailed thereto, and at the end of two hours have the ears cut loose from the nails, which judgment the respective county courts of this commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the district court within whose jurisdiction such county shall be; such party giving bond with good security, in the sum of one hundred dollars,



for his or her personal appearance in the said court, according to the appeal, and to perform and abide their award; and moreover every such offender shall pay and satisfy eight dollars for every stolen hog, shoat, or pig, to the owner or informer, to be recovered as aforesaid. And if there be several offenders in one and the same fact, although but one hog, shoat, or pig be stolen, each person may be particularly prosecuted, and upon conviction shall be adjudged to suffer the punishment, and pay the whole fine as aforesaid.

Where there are several offenders in one fact, each of them liable to punishment.

3. If any servant shall be convicted of hog stealing, his or her master or owner, shall pay and satisfy eight dollars, to be recovered and divided as aforesaid, whether it be for the first or second offence, and shall be repaid for the same and costs of suit, by further service of such offender, after his or her time, due by indenture, contract, or former judgment shall be expired, at the rate of three dollars for one month's service, and judgment shall be entered up accordingly.

If servants be convicted, the penalty to be paid by the master, and repaid by the servant.

4. When any slave or slaves shall hereafter steal any hog, shoat, or pig, it shall be lawful for any justice of peace of the county where such offence shall be committed, upon complaint or information thereof to him made, to cause such offender or offenders, and the witness or witnesses, to come before him; and if upon examination, any slave or slaves appear to be guilty, to commit him, her, or them to prison, or bind every such offender with security, to appear personally before the court next thereafter to be held for his county, to answer such complaint or information, and to abide the judgment of the said court; and the justices thereof are hereby required to direct the person appointed to prosecute for the commonwealth in the same court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said court to hear and determine the matter of such charge or complaint without any jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes, mulattoes or Indians, bond or free, as to them shall seem convincing; and if, in the opinion of such court, the slave or slaves so charged, is or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping post; and upon a second conviction, shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any negro, mulatto, or Indian, shall, upon due proof made, or pregnant circumstances appearing to any county court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog stealing, every such offender, without further trial, shall be by such court ordered to receive the same corporal punishment as the slave tried for hog stealing would receive upon conviction. And the first justice in commission, sitting at such trial, shall, before the examination of such negro, mulatto, or Indian, charge such evidence to speak the truth; and shall also inform him or her of the consequence of giving false testimony.

How slaves shall be prosecuted and punished for hog stealing.

For the first offence.

For the second offence.

Punishment of false witnesses.

5. If any person whatsoever, shall be the third time convicted of hog stealing, every such offender shall be adjudged a felon.

Third offence felony.

6. If any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive

Bringing home, or carrying on board any vessel, hogs without ears, hog





stealing, unless  
the party proves  
his property.

any such, and not immediately discover the same to a justice of the peace, he or she so offending, shall be adjudged a hog stealer: *Provided nevertheless*, That any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property.

Indians' hogs to  
have the mark of  
their town.

7. All tributary Indians keeping swine, shall give them the same mark, which hath been, or by the next adjacent county court shall be allowed to the town to which such Indians respectively belong; and if any person not being an Indian, shall buy or receive from any Indian, any pork, and cannot prove such pork to be of the proper mark of the town of Indians, to which the Indian of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay twenty-five dollars, one half to the commonwealth, and the other half to the informer; to be recovered with costs, by action of debt in any court of record within this commonwealth.

Repealing clause.

8. All and every act, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence, committed or done before the commencement of this act.

Proviso.

Commencement.

9. This act shall commence in force from and after the passing thereof.

#### CHAP. 37.—An ACT to prevent malicious shooting, stabbing, maiming, and disfiguring.

(Passed December 17, 1792.)

Punishment for  
maiming or dis-  
figuring another.

1. *Be it enacted by the general assembly*, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose or lip, or cut off or disable any limb or member of any person whatsoever, within the commonwealth, in so doing to maim or disfigure, in any of the manners before mentioned, such person, the person or persons so offending, their counsellors, aiders and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

For shooting or  
stabbing another.

2. If any person shall shoot or stab any person within the commonwealth, with an intent to maim, disfigure or kill, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony.

Repealing clause.

Proviso.

3. All other acts, within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement.

4. This act shall commence in force from and after the passing thereof.



CHAP. 38.—An ACT declaring the punishment of the crime of buggery.

(Passed December 10, 1792.)

1. *Be it enacted and declared by the general assembly, That if* Punishment for buggery.  
any do commit the detestable and abominable vice of buggery, with man or beast, he or she so offending, shall be adjudged a felon, and shall suffer death, as in case of felony, without the benefit of clergy.

2. This act shall commence in force from and after the passing Commencement. thereof.

CHAP. 39.—An ACT declaring the punishment of horse stealers, and their accessories, and reducing into one the several acts to encourage the apprehenders of horse stealers.

(Passed December 10, 1792.)

1. *Be it enacted and declared by the general assembly, That if* Punishment of horse stealers.  
any person do feloniously take or steal any horse, mare or gelding, foal or filly, the person so offending, shall not be admitted to have or enjoy the benefit of clergy, but shall be utterly excluded thereof, and shall suffer death as in case of felony.

2. And for as much as felons are much encouraged to steal horses, because a great number of persons make a trade to receive and buy of such felons, the horses by them feloniously taken, and also do make it their business to conceal such offenders after the said fact, knowing such felonies to be by them committed: *Be it therefore enacted,* Of their accessories. That if any person or persons shall receive or buy any horse, that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall harbour or conceal any horse stealer, knowing him, her or them to be so, such person or persons shall be taken and received as accessory or accessories to the said felony; and being of either of the said offences legally convicted, by the testimony of one or more credible witness or witnesses, shall incur and suffer the pain of death as a felon convict.

3. *Provided always,* How the accessories may be punished if the principals be not convicted. That if any such principal felon cannot be taken, so as to be prosecuted and convicted of any such offence, yet, nevertheless, it shall and may be lawful to prosecute and punish every such person and persons, buying or receiving any horses stolen by any such principal felon, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the court shall think fit to inflict, although the principal felon be not before convict of the said felony; which shall exempt the offender from being punished as accessory, if such principal felon shall be afterwards taken and convicted.

4. Whosoever shall apprehend one charged with horse stealing, Reward for apprehending a horse stealer. if the prisoner be convicted of that crime, shall be entitled to a reward of twenty dollars from the treasurer, upon a certificate from any of the district courts of this state, that the claimant was the apprehender, and either that he was not examined as a witness at the trial, or that the other evidence then given, was sufficient without his testimony to convict the prisoner.

5. The legal representative of any person killed in endeavoring to apprehend any horse stealer, shall receive the sum of one hundred and seventy dollars, to be paid by the treasurer, upon the order of the auditor, which he is hereby directed to issue, upon a certificate delivered under the hands and seals of two justices of the peace of the county where the fact was committed, that such per- Reward of execution, &c. of persons killed in pursuit of, or in taking a horse stealer.





son was so killed; which certificate, the said justices, upon sufficient proof before them made, are required immediately to give.

Repealing clause.

6. All and every act or acts, statute or statutes, clause or clauses, of acts, coming within the purview of this act, (except as herein after provided,) shall be, and the same are hereby repealed: *Provided nevertheless*, That nothing herein contained, shall be construed to repeal any such statute or acts, for so much of any of them, as may relate to any offence within the purview thereof, committed or done before the commencement of this act.

Proviso.

Commencement.

7. This act shall commence in force from and after the passing thereof.

CHAP. 40.—An ACT providing for the poor, and declaring who shall be deemed vagrants.

(Passed December 26, 1792.)

Overseers of the poor, how and by whom to be elected.

1. *Be it enacted by the general assembly*, That the court of every county within this commonwealth, after the expiration of the period during which the present overseers of the poor for the respective counties are to continue in office, under the last general election, or before that period, as herein after directed, shall cause their said county to be laid off into convenient districts, not exceeding four in each county, and shall direct the sheriff of the county to cause publication to be made, that on some day to be appointed by the said court, an election will be held within each district, to consist of freeholders and housekeepers only, for the purpose of choosing three discreet and fit persons, being freeholders of and resident within the same, who shall be called and denominated overseers of the poor, and shall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections shall be made in the same manner, but the general elections shall in all cases be computed from the first day of April, in the year in which they shall be made, notwithstanding the time of service shall thereby be made shorter than this act directs. The county court may at any session within six months before the first day of April, which will be in the year in which the general election of overseers is to be held, enter into the measures directed by this act for regulating the same, and may fix on some convenient day for holding the said elections.

To continue in office three years.

The county court to appoint a person to superintend the election.

2. And the said courts respectively, shall appoint some person in each district, to superintend the election; and if any person so appointed, shall refuse or neglect to serve, without reasonable excuse, he shall forfeit and pay for every such refusal or neglect, the sum of thirty dollars, to be recovered for the use of the poor of the county, in any court of record, by action of debt or information founded on this act, together with costs. And the person who shall be appointed to superintend any election, shall return the names of the person or persons chosen, to the clerk of the county, who shall thereupon issue a writ to the sheriff of the county, commanding him, that ten days before the ensuing court day, he shall inform the said person or persons, that he or they hath or have been elected overseer or overseers of the poor, and require him or them to appear at the next court day, and make oath that he or they will truly and faithfully administer the said office. And any person being duly elected, who shall refuse or neglect to serve as an overseer of the poor in the county of which he is an inhabitant, unless disqualified

Return to be made of the persons elected.

Overseers of the poor to be informed of their appointment.

How qualified.

Penalty for refusing to serve, without a reasonable excuse.





by age, or other infirmity, such disqualification to be judged of by the county court, shall forfeit and pay thirty dollars, to be recovered with costs, by action of debt or information, in any court of record within this commonwealth: *Provided*, That no person shall be compelled to serve more than three years, nor be subject to the penalty for refusing more than once in every term of nine years. Provido.

3. Whenever it shall so happen that the person appointed to superintend the election of overseers of the poor in any district, shall fail to attend agreeable to his appointment, or in case there be no election, on account of the nonattendance of the electors, or in case of the death, refusal, or disability of any overseer or overseers of the poor, the county court shall, and they are hereby required, at their next court, to fill any vacancy that may so happen, by appointing persons to serve for the same time such person or persons should otherwise remain in office. When they shall be appointed by the county courts.

4. The overseers of the poor in every county, although in different districts, shall meet annually at some convenient place, to be appointed by a majority of them, on the first Monday in March; but if the number required by law shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month. The overseers of the poor of the different districts, if there be more than one in the county, shall bring with them to such annual meeting, a distinct state of the number, names, and situation of the poor, and an account of the expenditures in their respective districts; and a majority of the overseers of the poor in the county so meeting, and there being in such majority at least one overseer of the poor from each district, shall choose a president, and shall be empowered to regulate the necessary provisions to be made for all the poor of the county, exclusive of the poor of any corporate town, for the succeeding year, as well as to adjust and settle the charges of supporting and maintaining the poor the preceding year, and to levy and assess upon all such taxables of their county, as are subject to county levies, except the inhabitants of any corporate town, and settle the amount of the poor rate upon each such taxable in specie; for which purpose the clerk of the county shall furnish the said overseers with a certified copy of the list of all such taxables in the county, exclusive of those in any corporate town within the same, if any such there be. Overseers to meet together annually, and levy the poor rate.

5. The overseers of each district shall provide for the poor, lame, blind, and other inhabitants of the district not able to maintain themselves, and may also provide houses, nurses, and doctors, in such cases as they or a majority of them shall think necessary; the expenses of which shall be provided for in the succeeding levy. To provide for the poor, lame and blind.

6. If any poor person shall suppose that he or she is entitled to the benefit of the laws for the relief of the poor, and the overseers of the district in which he or she resides, shall refuse to give such person the benefit thereof; upon application of such person, the county court may, if they think proper, direct the overseers to receive him or her upon their lists of poor. County court may direct them to receive any poor person on their list.

7. The overseers of each district shall take effectual measures to prevent the poor resident within the same from strolling into another county; and each of the overseers within a county, may make complaint before a justice of the peace, that any poor person or poor persons, is, or are come into their county, and is, or are likely to Poor persons strolling from one county to another, may be removed to that in which they were last legally settled.



become chargeable thereto; whereupon it shall be lawful for such justice, by warrant under his hand, to cause such poor person to be removed to the county or district, where he or she was last legally settled; but if such poor person be sick or disabled, and cannot be removed without danger of life, the overseers shall provide for his or her maintenance or cure, at the charge of their county, and after recovery, shall cause him or her to be so removed, and the county or district wherein he or she was last legally settled, shall repay all charges occasioned by the sickness, maintenance and cure of such poor person, and for removing him or her, and also all charges and expenses, if such person shall die before removal. And if the overseers of the county or district to which such poor person belongs, shall refuse to receive and provide for the person or persons so removed, every overseer so refusing, shall forfeit and pay sixty dollars. And if the overseers of the poor where such poor person was last legally settled, shall refuse to pay and satisfy all the charges and expenses aforesaid, the same may be recovered from them by suit, to be brought in the names of the overseers by whom such disbursement may have been made, with the costs of such suit, in any court of record.

Disputes concerning residence of poor persons, how to be determined.

8. Where any dispute shall arise respecting the residence of any poor persons, the court of any county adjacent, is authorized to take cognizance thereof, and to determine the same.

Overseers of the poor to make monthly returns to the county courts of the poor orphans, and of the children of persons unable to support them, and bind them apprentices.

9. The overseers of the poor of each district, shall monthly make returns to the court of their county, of the poor orphans in their district, and of such children within the same, whose parents they shall judge incapable of supporting them, and bringing them up in honest courses; and the said court is hereby authorized to direct the said overseers, or either of them, to bind out such poor orphans and children apprentices to such person or persons as the court shall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms prescribed and directed by the act, *"To reduce into one, the several acts concerning guardians, orphans, committees, infants, masters, and apprentices."*

To appoint a collector of the poor rates, and take bond and security of him.

10. And the overseers of the poor shall also be, and they are hereby empowered and required, at their annual meeting, to appoint a collector of such county poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their president, for the use of the said overseers of the poor, to be applied towards lessening the county poor rate, and conditioned for the faithful and diligent collection of the said poor rate, and the payment to the several persons respectively entitled thereto, of the sums of money due to them according to the entries and accounts of the said overseers of the poor, (a copy of which shall be delivered to such collector) and also for settling with the said overseers of the poor, or their successors, at their next annual meeting, a just and true account of all his receipts and disbursements, with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands.

Collector's commission.

11. The said collector shall be allowed the same commission for receiving the poor rate, as the sheriff is by law allowed for receiving county levies, and shall be subject to the same rules and regulations, and shall have the power of distress in case of nonpayment of any person chargeable therewith, immediately after the tenth day of April in every year.

When they may distrain for the poor rates.





12. It shall be the duty of the sheriff of every county, and of the Sheriff and serjeant of any city or borough, if appointed by the overseers of the poor, to collect any poor rate, to collect and account for the same, and they shall be liable to all things required and imposed on a collector of such rate by law. Any sheriff or serjeant refusing to undertake such collection, shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered in manner aforesaid, for the use aforesaid.

13. In case of the death of any person appointed to collect the poor rates at any time before his collection begins, the overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security, in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations; and be moved against in the same manner, as other collectors of the poor rates.

14. It shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself; and if such collector shall refuse or neglect to settle his accounts with the overseers of the poor, as herein before directed, or shall fail or refuse to pay them any money which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more overseers, on or before the first day of September annually, it may and shall be lawful for the court of the county and corporation wherein such collector was appointed, upon the motion of the overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities, for the sums of money respectively due to the said overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money which, by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies.

15. Whensoever any overseer or overseers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors or administrators, shall have the same remedy against such overseer or overseers, their heirs, executors or administrators, as he or they might have had against the collector if the money had remained in his hands.

16. The overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former overseers, and to receive from them any sums of money which shall be in their hands, and to call upon the collector or collectors heretofore appointed by any vestry, or by any former overseers, for a settlement of their accounts, and payment for any balances which shall be in their hands; and on failure of such payment, they shall have the same mode of recovery as is directed by this act for the recovery of money or tobacco in the hands of a collector of their

If the collector dies, another may be appointed.

Collectors may appoint deputies.

Remedy against them for failing to settle their accounts, or pay the money.

Against the overseers of the poor for failing to pay the money to the persons entitled thereto.

Overseers to settle with their predecessors, and with the former collectors.



own appointment. Wheresoever any former churchwarden, collector or overseer of the poor is dead, or shall hereafter die, without settling his accounts and paying the balance due from him, his executors and administrators shall be liable to the same recovery, as the churchwarden, collector or overseer himself would have been subject to in his lifetime; saving to such executors and administrators the benefit of all pleas, to which they may be by law entitled.

To levy a sufficient sum to pay any arrears due.

17. The said overseers of the poor shall also be, and are hereby empowered to levy in the manner before directed, such sums of money as shall be necessary to pay any arrears which may be due and unpaid by any parish or district to individuals.

Their proceedings and accounts to be entered in a book. May appoint a clerk.

18. All the proceedings and accounts of the overseers of the poor shall be regularly entered in a book, and shall be signed by the members present at each annual meeting; and for this purpose the said overseers of each county, or a majority of them, shall be, and are hereby empowered to appoint a clerk, and at any time upon his misbehaviour or neglect of duty, to remove him and appoint another in his stead, and to make such clerk an allowance not exceeding twenty dollars annually for his services.

How they shall vote.

19. At the said annual meeting, each of the overseers of the county who are present, shall have a vote, and if upon any such vote they be equally divided, the question shall be decided in favor of that side on which the president shall have voted.

Allowance to them.

20. The overseers of the poor if they demand the same, shall be allowed one dollar each, to be charged in their account of other expenditures, for every day they shall attend the before mentioned annual meeting, and shall be subject to a penalty of two dollars for every day each of them respectively shall fail to attend the same; to be computed in both cases from the first day of such annual meeting during the continuance thereof; and their clerk shall in like manner be subject to the penalty of two dollars for every day he shall fail to attend such annual meeting, unless such overseers of the poor, or their clerk respectively, shall be prevented from attendance by sickness, or other unavoidable accident; to be recovered with costs by warrant before any justice of the peace for the county.

Penalty for nonattendance.

Penalty on their clerk for nonattendance.

County courts may exempt persons from payment of poor rates.

21. The courts of the several counties within this commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all such persons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and all those persons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the said poor rates.

Overseers annually to settle their accounts with the county courts.

22. The overseers of each district shall in the month of October, in each year, settle their accounts with the county court, and the money which shall remain in their hands, or in the hands of their collector unappropriated, shall be deducted from the rate to be made for the ensuing year. And the overseers of each district failing to render their accounts as aforesaid, shall respectively be liable to a forfeiture of one hundred dollars for such failure, to be recovered by an action of debt in their respective county courts, commenced in the name of the clerk of the said court, (at the expense of the county) to be applied towards lessening the levy of such county, and the court of the county where the failure shall happen, are hereby directed to order the attorney for the commonwealth to institute the suit.

Penalty for failure.





23. If any single woman not being a servant or slave, shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any county, and shall upon examination before any justice of the peace of the county to be taken in writing upon oath, charge any person, not being a servant, with being the father of such bastard child, it shall and may be lawful for any justice of the peace of the county, wherein the person so charged shall be a resident or inhabitant, upon application made to him by the overseers of the poor, or any one of them of the county wherein such child shall be born, to issue his warrant for the immediate apprehending the person so charged as aforesaid, and for bringing him before such justice, or before any other justice of the peace of the county wherein he is a resident or inhabitant; and the justice before whom such person shall be brought, is hereby authorized and required to commit the person so charged as aforesaid, to the common jail of his county, unless he shall enter into a recognizance, with sufficient security, in the sum of thirty dollars, upon condition to appear at the next court to be held for such county, and to abide and perform such order or orders as shall be made by the said court. And if upon the circumstances of the case the court shall adjudge the person so charged to be the father of such bastard child, and that such child is likely to become chargeable to the county, they shall and may in their discretion take order for keeping such bastard child, by charging the father with the payment of money for the maintenance of such child, in such manner and in such proportions as they shall think meet and convenient, and for such time as such child is likely to become chargeable to the county, and no longer. And the father of such child shall enter into a recognizance, with sufficient security before the said court, in such sum as the said court in their discretion shall think fit, payable to the governor of this commonwealth for the time being, and his successors, to observe and perform such order or orders of the court as aforesaid. And if the father charged with the maintenance of such bastard child as aforesaid, shall make default and not pay the money so as aforesaid charged upon him by order of the said court, to the overseers of the poor, for the maintenance of such child, the court before whom the recognizance was entered into, shall from time to time, upon the motion of the overseers of the poor, or any one of them, enter up judgment and award execution for the money in such order or orders mentioned, as the same shall become due against the said father and his securities, their executors or administrators; provided ten days notice be given to the parties against whom such motion is made before the making thereof. And if the father of such child shall refuse to enter into recognizance as aforesaid, such father shall be committed by the said court to the common jail of the county, there to remain without bail or mainprize until he shall enter into such recognizance as aforesaid, or until he shall discharge himself by taking the oath of an insolvent debtor, and delivering in a schedule of his estate in manner directed by the laws for debtors in execution, (and which estate shall by order of the court be applied towards indemnifying the county) or until the overseers of the poor shall consent to his discharge.

24. *Provided always*, That it shall not be lawful for any justice or justices of the peace, to send for any woman whatsoever before she shall be delivered, in order to her being examined concerning

How the fathers of bastard children, born of free single women, may be compelled to support them.

No woman while pregnant, to be questioned by the justices concerning her pregnancy.





her pregnancy, or to compel her to answer any questions relating thereto before her delivery.

Bastard children may be bound apprentices by the overseers of the poor.

25. Every bastard child may be bound apprentice by the overseers of the poor of the district for the time being wherein such child shall be born, every male until he attains twenty-one years, and every female until she attains eighteen years, and no longer; and the master or mistress shall be subject to the same conditions as are prescribed in the case of an apprentice, by the act, intituled, "*An act to reduce into one, the several acts concerning guardians, orphans, committees, infants, masters and apprentices.*"

Vagrants how to be treated, when found within any county.

26. The overseers of the poor, or any one of them, shall be, and are hereby empowered, upon discovering any vagrant or vagrants within their respective districts, to make information thereof to any justice of the peace for the county, and to require a warrant for apprehending such vagrant or vagrants, to be brought before him or some other justice of the peace for the said county; and if upon due examination, it shall appear to such justice, that the person or persons are within the true description of a vagrant, as herein after mentioned, such justice shall, by warrant under his hand, order such vagrant or vagrants to be delivered to some one of the overseers of the poor of the district in which such vagrant or vagrants shall have been apprehended, to be employed in labor for any term not exceeding three months, and by the said overseer of the poor hired out for the best wages that can be procured, to be applied to the use of the poor. And if any such vagrant or vagrants shall, during such time of service, run away from the person so employing him or them, he or they shall be dealt with in the same manner as other runaway servants.

Corporation courts to provide for their own poor.

27. The corporation courts of the several corporate towns within this commonwealth, shall be, and they are hereby respectively empowered and required, to provide for and maintain the poor within the limits of their respective towns, separately and distinctly from the poor of the county; and any two magistrates of any such corporation court, shall be, and are hereby empowered by warrant, under their hands, to cause to be removed any poor person to the last place of his or her legal residence, who hath not been resident within the limits of such town for one year last past before such removal. And in like manner the overseers of the poor within the county, shall be, and they are hereby empowered, by warrant under the hands of any two of them, to cause to be removed into any corporate town, any poor person whose residence shall have been within the limits of such town for one year last past before such removal; except in both cases such poor persons only as have been lodged in any poor house at any time during the last two years, who shall be respectively returned to, and maintained by the county or town, according to their respective usual residence in either.

Any two magistrates thereof may remove poor persons to the places of their legal residence.

Overseers of the poor of a county may remove to any corporation any poor person belonging thereto.

County and corporation courts may provide poor-houses.

28. The several county and corporation courts, shall be, and they are hereby respectively empowered, whenever they shall judge it necessary, to provide or build a poorhouse, and workhouse for the reception of their poor, and for the reformation of vagrants, and to employ a proper person or persons as stewards, or managers thereof, subject to the direction and control of such corporation court.

Corporations to levy annually money for the support of their poor.

29. And the said corporations shall be, and they are hereby respectively empowered and required, to levy and assess annually upon their respective towns, either by way of poll tax upon the in-



habitants, or by a tax upon houses or other property within the limits of the town, as they shall judge best, all charges incurred for the support and maintenance of their poor; and also the charges which may be incurred in providing or building a poorhouse and workhouse, and in the government and management of the same.

30. The inhabitants of any such corporate town not having a freehold estate in the county without the limits of the town, shall be disabled from voting in any election of the overseers of the poor in the respective counties, nor shall any inhabitant of any corporate town be capable of serving as an overseer of the poor in any county.

Inhabitants thereof not freeholders in the county, not to vote for overseers of the poor.

31. It shall and may be lawful for any magistrate of any such corporation court, upon discovering any vagrant or vagrants within the limits of the town, to issue his warrant for apprehending such vagrant or vagrants for examination; and if upon such examination before two magistrates of the corporation court, it shall appear that the person or persons so apprehended, are within the true description of a vagrant as herein after mentioned, the said two magistrates shall be, and are hereby empowered, by warrant under their hands, to commit such vagrant or vagrants to the workhouse, there to be employed in labor for any term not exceeding three months, and if there be no workhouse in such town, the said two magistrates may, and they are hereby empowered to proceed with such vagrant or vagrants in the same manner as the overseers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them.

Vagrants how to be treated when found within a corporation.

32. Any able bodied man, who, not having wherewithal to maintain himself, shall be found loitering, and shall have a wife or children, without means for their subsistence, whereby they may become burthensome to their county or town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himself, shall wander abroad, or be found loitering, without betaking himself to some honest employment, or shall go about begging, shall be deemed and treated as a vagrant.

Who shall be deemed vagrants.

33. So much of the clause respecting vagrants or idle persons not having wherewithal to maintain themselves in the act, intituled, "*An act concerning seamen*," as is contrary to this act, shall be, and is hereby repealed.

Part of a former law concerning them repealed.

34. All the forfeitures and penalties inflicted by this act, shall be, one half to the informer, and the other half to the use of the overseers of the poor for the county, to be applied by them towards the support and maintenance of such poor, unless where by this act it is otherwise directed.

Penalties and forfeitures, how appropriated.

35. And for determining what shall be accounted a legal settlement within this act, *It is hereby enacted and declared*, That no person shall be accounted an inhabitant so as to have gained a legal settlement, until such person shall have been actually resident in the county wherein he shall claim a legal settlement for the space of one whole year.

What shall be deemed a legal settlement.

36. All fines and forfeitures hereafter to be inflicted under any penal law which are appropriated to the use of the county, towards lessening the levy for the support of the poor, shall be collected, levied, accounted for, and paid by the sheriffs of the counties to the overseers of the poor in their several counties respectively, in like manner, and subject to the same remedy and proceedings against

Fines, &c. appropriated towards lessening the county levy, how to be collected.





them, for default, as the collectors appointed by virtue of this act are subject to in default of collecting the levies imposed by virtue thereof.

Arrearages due to parishes, how recoverable.

37. The trustees of any religious society shall have full power and authority to prosecute all suits heretofore instituted, and now depending upon bond or otherwise, for any arrearages due to the different parishes within this commonwealth.

Repealing clause.

38. All and every act or acts, clause or clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Proviso.

39. *Provided nevertheless*, That all rights, remedies, fines, penalties and forfeitures incurred or accruing under any former act, shall remain in the same condition as if this act had not been made: *And provided also*, That nothing herein contained shall be construed in any manner to alter or repeal one act of general assembly, passed on the twelfth day of December, one thousand seven hundred and ninety-one, intituled, "*An act concerning the poor of the parish of Suffolk in the county of Nansemond.*"

Commencement.

40. This act shall commence and be in force from and after the passing thereof.

CHAP. 41.—An ACT to reduce into one, the several acts concerning slaves, free negroes, and mulattoes.

(Passed December 17, 1792.)

Who shall be deemed slaves.

1. *Be it enacted by the general assembly*, That no persons shall henceforth be slaves within this commonwealth, except such as were so on the seventeenth day of October, in the year one thousand seven hundred and eighty-five, and the descendants of the females of them.

When slaves hereafter imported shall be free.

2. Slaves which shall hereafter be brought into this commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free.

Penalties on the importers of slaves, and on the sellers and buyers.

3. Every person hereafter importing slaves into this commonwealth, contrary to this act, shall forfeit and pay the sum of two hundred dollars for every slave so imported; and every person selling or buying any such slaves, shall in like manner forfeit and pay the sum of one hundred dollars for every slave so sold or bought; one moiety of which forfeitures shall be to the use of the commonwealth, and the other moiety to him or them that will sue for the same; to be recovered by action of debt or information in any court of record.

Exceptions in favor of emigrants from any of the United States, taking a certain oath within a limited time.

4. *Provided*, That nothing in this act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if within sixty days after such removal, he or she shall take the following oath before some justice of the peace of this commonwealth: "*I, A. B. do swear, that my removal into the state of Virginia, was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves, with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from Africa, or any of the West India islands, since the first day of November, one thousand seven hundred and seventy-eight. So help me God.*" Nor to any persons claiming slaves by descent, marriage or devise; nor to any citizens of this

And of citizens claiming slaves by descent, devise or



commonwealth, being now the actual owners of slaves within any of the United States, and removing such hither; nor to travellers and others making a transient stay, and bringing slaves for necessary attendance, and carrying them out again.

5. No negro or mulatto shall be a witness, except in pleas of the commonwealth, against negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone shall be parties.

6. No slave shall go from the tenements of his master or other person with whom he lives, without a pass, or some letter or token, whereby it may appear that he is proceeding by authority from his master, employer, or overseer. If he does, it shall be lawful for any person to apprehend and carry him before a justice of the peace, to be by his order punished with stripes, or not, in his discretion.

7. And if any slave shall presume to come and be upon the plantation of any person whatsoever, without leave, in writing, from his or her owner or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation, to give or order such slave ten lashes on his or her bare back for every such offence.

8. No negro or mulatto whatsoever shall keep or carry any gun, powder, shot, club, or other weapon whatsoever, offensive or defensive, but all and every gun, weapon, and ammunition found in the possession or custody of any negro or mulatto, may be seized by any person, and upon due proof thereof made before any justice of the peace of the county or corporation where such seizure shall be, shall by his order be forfeited to the seizer for his own use; and moreover, every such offender shall have and receive by order of such justice, any number of lashes not exceeding thirty-nine, on his or her bare back, well laid on, for every such offence.

9. *Provided nevertheless*, That every free negro or mulatto, being a housekeeper, may be permitted to keep one gun, powder and shot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and use guns, powder, shot, and weapons, offensive or defensive, by license from a justice of peace of the county wherein such plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of such as are slaves.

10. Every person other than a negro, of whose grandfathers or grandmothers any one is, or shall have been a negro, although all his other progenitors, except that descending from the negro, shall have been white persons, shall be deemed a mulatto; and so every such person who shall have one fourth part or more of negro blood, shall in like manner be deemed a mulatto.

11. Riots, routs, unlawful assemblies, trespasses and seditious speeches by a slave or slaves, shall be punished with stripes, at the discretion of a justice of the peace, and he who will, may apprehend and carry him, her or them, before such justice.

12. And to prevent the inconveniences arising from the meetings of slaves, *Be it further enacted*, That if any master, mistress or overseer of a family, shall knowingly permit or suffer any slave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overseer of such slave, he or she so permitting shall forfeit and pay three dollars for every such offence; and every owner or over-

marriage, or being now the owners, and removing them from another state, and travellers carrying them out again.

In what cases negroes or mulattoes may or may not be witnesses.

Slaves not to go from home without passes.

Coming on the plantations of others without leave from their masters, may be whipped.

Negroes and mulattoes not to keep or carry arms.

Except these living on the frontiers, licensed by the justices of the peace.

Who shall be deemed mulattoes.

Punishment of slaves for riots, unlawful assemblies, seditious speeches, &c.

No person shall permit the slaves of others to remain on his plantation.





seer of a plantation who shall so permit or suffer more than five negroes or slaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, shall forfeit and pay one dollar for each negro or slave above that number: which said several forfeitures shall be to the informer, and recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed.

Proviso.

13. *Provided always*, That nothing herein contained, shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting with their owner's or overseer's leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, so as such meeting be not in the night time, nor on a Sunday, nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer, nor their going to church and attending divine service on the Lord's day, or any other day of public worship.

Punishment of persons present at unlawful meetings of slaves, or harbouring others' slaves.

14. If any white person, free negro, mulatto, or Indian, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave without the consent of his or her owner, such person being thereof convicted before any justice of the peace, shall forfeit and pay three dollars for every such offence to the informer, recoverable with costs before such justice; or on failure of present payment, shall receive on his or her bare back, twenty lashes well laid on, by order of the justice before whom such conviction shall be.

Duty of justices, sheriffs, and other officers, in suppressing unlawful meetings.

15. And every justice of peace upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or any other justice of his county or corporation, to be dealt with as this act directs; and every justice failing herein, shall forfeit and pay eight dollars for every such failure; and every sheriff or other officer who shall fail upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some justice of peace to receive due punishment, shall be liable to the like penalty of eight dollars; both which penalties shall be to the informer, and recoverable with costs by action of debt in any county or corporation court; and every under sheriff, serjeant, or constable, who upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay four dollars for every such failure to the informer, recoverable with costs before any justice of the county or corporation wherein such failure shall be.

Penalty for dealing with a slave without his master's leave.

16. No person whatsoever shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold or received, to be recovered with costs, by action upon the case in any court of record within this commonwealth, and shall also forfeit and pay the further sum of twenty dollars to any person who will sue for the same; to be recovered with costs by summons and petition in the same manner as other debts not exceeding twenty





dollars, nor under five dollars in any court of record, or receive on his or her bare back thirty-nine lashes well laid on at the public whipping post, but shall nevertheless be liable to pay the costs of such summons and petition.

17. If any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending, shall for every such offence, proved by the oath of the party before a justice of the peace of the county or corporation where such offence shall be committed, receive such punishment as the justice shall think proper, not exceeding thirty lashes on his or her bare back well laid on, except in those cases when it shall appear to such justice, that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defence.

Punishment of a negro or mulatto lifting his hand against a white person.

18. It shall not be lawful for any county or corporation court, to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment.

In what cases the courts may direct slave to be castrated.

19. *Provided always*, That nothing herein before contained, shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of any surgeon or other person undertaking the dismembering or cure of any slave so punished by order of court; but every owner shall and may have the same remedy for the death and loss of his or her slave or slaves, as he or she might have had if this act had never been made.

Owner not barred of his remedy where his slave is killed, or dies through negligence of the surgeon undertaking to dismember or cure him.

20. And whereas many times slaves run away and lie out hid and lurking in swamps, woods, and other obscure places, killing hogs and committing other injuries to the inhabitants of this commonwealth: *Be it therefore enacted*, That in all such cases, upon intelligence given of two or more slaves lying out as aforesaid, any two justices of the peace of the county wherein the slaves are supposed to lurk or do mischief, shall be, and are empowered and required by warrant, reciting their names, and owners' names if known, to direct the sheriff of the said county to take such person with him, as he shall think fit and necessary for the effectual apprehending such outlying slave or slaves, and go in search of them, and upon their being apprehended, to commit them to the jail of his county for further trial.

Process against outlying slaves.

21. If any negro or other slaves at any time consult, advise, or conspire to rebel, or make insurrection, or shall plot or conspire the murder of any person or persons whatsoever, every such consulting, plotting, or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof in manner herein after directed, shall suffer death, and be utterly excluded all benefit of clergy.

Conspiracy of slaves to rebel or murder, felony without clergy.

22. If any negro or other slave shall prepare, exhibit, or administer any medicine whatsoever, he or she so offending, shall be judged guilty of felony, and suffer death without benefit of clergy.

Or to prepare or administer medicine.

23. *Provided always*, That if it shall appear to the court before whom such slave shall be tried, that the medicine was not prepared, exhibited, or administered with an ill intent, nor attended with any bad consequences, such slave shall be acquitted.

Provisoos.

24. *And provided also*, That nothing herein contained shall be construed to extend to any slave or slaves administering medicines by his or her master's or mistress's order in his or her family, or the



family of another, with the mutual consent of the owner of such slave, and the master or mistress of such family.

Penalty for suffering a slave to go at large and trade as a free man.

25. If any master or owner of a slave, shall license such slave to go at large, and trade as a free man, the master or owner shall forfeit and pay the sum of thirty dollars for the use of the poor of the district where such slave shall be found going at large and trading as aforesaid, to be recovered by the overseers of the poor, by action of debt, in any court of record within this commonwealth; and if after conviction such slave shall be found so going at large and trading, the master or owner shall again be liable to the like penalty, to be recovered as aforesaid, and so as often after conviction, as such slave shall be found so going at large and trading.

Slaves suffered to go at large and hire themselves out, may be apprehended and sold.

26. If any person shall permit or suffer his or her slave to go at large, or hire him or herself out, it shall be lawful for any person to apprehend, and carry every such slave before a justice of the peace in the county or corporation where apprehended, and if it shall appear to the justice that such slave comes within the purview of this act, he shall order him or her to the jail of the county or corporation, there to be safely kept until the next court, when, if it shall be made appear to the court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act; it shall be lawful for the court, and they are hereby required, to order the sheriff or other officer of the county or corporation, to sell and dispose of every such slave for ready money, at the next court held for the said county or corporation, notice being given by the sheriff or other officer, at the courthouse door, at least twenty days before the said sale.

Proceeds of the sales, how to be disposed of.

27. Twenty-five per centum upon the amount of the sale of every slave so going at large or hiring out himself or herself, shall be applied by the court ordering such sale towards lessening the county levy, and the residue shall be paid by the sheriff or other officer, after deducting five per centum for his trouble, and the jailor's fees, to the owner of such slave.

Felony without benefit of clergy to steal or sell free persons as slaves.

28. If any person shall hereafter be guilty of stealing or selling any free person for a slave, knowing the said persons so sold to be free, and thereof shall be lawfully convicted, the person so convicted, shall suffer death without benefit of clergy.

Or to steal any slave.

29. If any person or persons shall steal any negro or mulatto whatsoever out of, or from the possession of the owner or overseer of such slave, the person or persons so offending, shall be, and are hereby declared to be felons, and shall suffer death without benefit of clergy.

How slaves shall be tried for criminal offences.

30. The justices of every county or corporation, shall be justices of oyer and terminer for trying slaves charged with treason or felony, which trials shall be by five at least without juries upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five, nor more than ten days after the offenders shall have been committed to jail. No slave shall be condemned in any such case, unless all the justices sitting upon his or her trial shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee amounting to five dollars, shall be paid by the owner of the slave: *Provided always*, That when judgment of death shall be passed upon any such offender, there shall be thirty days at least between the time of passing

To be allowed counsel.

Not to be executed until the expiration of thirty days after conviction, except in certain cases.





judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion.

31. The value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a free man ought to be prosecuted and tried.

The value of slaves condemned and executed, or dying before execution, to be paid by the public.

32. No person having interest in a slave shall sit upon the trial of such slave.

None interested to sit on trial of slaves.

33. And for a declaration of what shall be deemed to be legal evidence in such cases, *It is further enacted*, That the court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes, bond or free, with pregnant circumstances, as to them shall seem convincing.

What shall be legal evidence against them.

34. When any negro or mulatto whatsoever shall be convicted of any offence, within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the jailor in open court, and suffer such other corporal punishment as the court shall think fit to inflict, except where he or she once had the benefit of this act, and in those cases such negro or mulatto shall suffer death without benefit of clergy.

How they shall be punished for offences within the benefit of clergy.

35. Where any negro or mulatto shall be found upon due proof made, to any county or corporation court of this commonwealth, to have given a false testimony, every such offender shall without further trial, be ordered by the said court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back well laid on at the public whipping post, or such other punishment as the court shall think proper, not extending to life or limb; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro or mulatto, not being a christian, charge such evidence to declare the truth; which charge shall be in the words following, to wit: "*You are brought hither as a witness, and by the direction of the law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, well laid on at the common whipping post.*"

Punishment of negroes or mulattoes for giving false testimony.

A charge to such witnesses.

36. It shall be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the county or corporation court by two witnesses, or acknowledged by the party in the court of the county where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this act.

How slaves may be emancipated.



But may be taken by execution, to satisfy certain debts of their former masters.

Those of certain descriptions to be supported by their former masters.

Copy of the instrument of emancipation to be delivered to the slave.

Under a penalty.

Person emancipated travelling out of his county without such copy may be committed.

Failing to pay taxes and levies yearly, may be hired out.

Reservation of the rights of others.

Slaves to be deemed personal estate.

Penalty on widow removing dower slaves out of the state.

On the husband of any person so endowed.

37. *Provided nevertheless*, That all slaves so emancipated, shall be liable to be taken by execution, to satisfy any debt contracted by the person emancipating them before such emancipation is made.

38. *Provided always*, That all slaves so set free, not being in the judgment of the court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the court of the county or corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose.

39. *Provided also*, That every person by written instrument in his lifetime, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument of emancipation, attested by the clerk of the court of the county or corporation, who shall be paid therefor by the person emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every person neglecting or refusing to deliver to any slave by him or her set free such copy, shall forfeit and pay thirty dollars; to be recovered with costs in any court of record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered.

40. It shall be lawful for any justice of the peace to commit to the jail of his county or corporation, any emancipated slave travelling out of the county of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the jailor's fees paid.

41. In case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the court of the county or corporation shall order the sheriff or serjeant to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate.

42. Saving, nevertheless, to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this act had never been made.

43. All negro and mulatto slaves in all courts of judicature within this commonwealth, shall be held, taken and adjudged to be personal estate.

44. If any widow possessed of a slave or slaves, as of the dower of her husband, shall remove or voluntarily permit to be removed out of this commonwealth, such slave or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom or usage to the contrary notwithstanding.

45. If any widow possessed as aforesaid, shall be married to a husband, who shall remove, or voluntarily permit to be removed out





of this commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion, in such case it shall be lawful for him or her in reversion to enter into, possess, and enjoy all the estate which such husband holdeth in right of his wife's dower, for and during the life of the said husband.

46. Where one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the high court of chancery, or the court of the county or corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each claimant: *Provided always*, That each claimant shall be first duly summoned to shew cause, if any he can, against such sale.

Slaves of an intestate may be sold where an equal division in kind cannot be made.

47. No gift or gifts of any slave or slaves, shall be good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever, unless the same be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the district court, or the court of the county or corporation where one of the parties lives, within eight months after the date of such deed or writing.

Gifts of slaves not valid except by will or deed, if the donor remains in possession.

48. This act shall be construed to extend only to gifts of slaves, whereof the donors have, notwithstanding such gifts, remained in the possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee.

49. *Provided always*, That nothing in this act contained shall be construed to alter any adjudication heretofore made, nor to affect the interest of any *bona fide* purchaser, for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift, nor in any manner to restrain or affect the operation of the act of limitation.

Proviso respecting former adjudications.

50. No master of any ship, or any other vessel, shall transport or carry any servant whatsoever, or any negro, mulatto, or other slave out of this commonwealth, without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every servant, and three hundred dollars for every slave transported or carried hence, contrary to this act; one moiety to the commonwealth, and the other moiety to the owner of such servant or slave, to be recovered, with costs, by action of debt or information, in any court of record of this commonwealth; and moreover, such master shall be liable to the suit of the party grieved, at the common law, for his or her damages.

Penalty on a master of a vessel, carrying a servant or slave out of the state, without the owner's consent.

51. In any action which shall be brought against the master of a ship or vessel under this act, the court wherein the same shall be depending, may rule the defendant to give special bail, if they see cause, and shall not allow him to plead in bar, or give in evidence any act or statute of limitation; any former or other law to the contrary notwithstanding.

In suits therefor the defendants may be ruled to give bail.

52. All and every act and acts, clauses and parts of acts, within the purview of this act, shall be, and are hereby repealed: *Provided nevertheless*, That all rights, remedies, fines, penalties and

Repealing clause. Proviso.





forfeitures incurred or accrued under any former act, shall remain in the same condition as if this act had not been made.

**Commencement.** 53. This act shall commence and be in force from and after the passing thereof.

**CHAP. 42.**—An ACT to regulate the solemnization of marriages, prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.

(Passed December 22, 1792.)

No person shall be married without license or publication of bans.

Penalty on ministers marrying without.

By whom the bans may be published where there is no minister.

Penalty for granting a false certificate of the bans being published.

How they may be published on the western waters.

Every ordained minister to celebrate the rites of

1. *Be it enacted*, That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of bans according to the rubrick in the book of common prayer, if the parties so to be married shall be members of the protestant episcopal church; and if the persons to be married dwell in several parishes, the bans shall be published in each parish, and the minister of the one shall not solemnize the matrimony, until he hath a certificate from the minister of the other parish, that the bans have been thrice published and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage, without such license or publication of bans as by this act required, he shall, for every such offence, be imprisoned one whole year without bail or mainprize, and shall also forfeit and pay fifteen hundred dollars. And if any minister shall go out of this government, and there join in marriage any person or persons belonging to this commonwealth, without such license or publication of bans, he shall be liable to the same penalties and forfeitures, as if such marriage had been by him celebrated within this commonwealth: *Provided always*, That where any parish or parishes have not a minister, the clerk or reader may publish bans, and if no objection be made, grant certificate thereof; which, together with a certificate under the hand and seal of a justice of the peace for the said county, living in the parish where such publication shall be, certifying that the *feme* so to be joined, hath been an inhabitant of the said parish one month next before the date of such certificate, shall be sufficient for the minister to solemnize the rites of matrimony; and if any minister, clerk or reader, shall grant or issue a false certificate, he shall suffer the imprisonment without bail, and pay the forfeiture aforesaid; and shall also be liable to be prosecuted and punished as in case of forgery. And that all or any of the offences aforesaid, may be prosecuted, tried and determined in any court of record within this commonwealth; which courts are hereby declared to have cognizance thereof, and may hear and determine the same, and award execution thereupon, according to the course of the common law: *And provided also*, That all publications of the bans of matrimony on the western waters of this commonwealth, shall be made on three several days, and not in less time than two weeks, in open and public assemblies, convened for religious worship, or other lawful purposes, within the bounds of the respective congregations or militia companies in which the parties to be married severally reside; and for a certificate of such publication, the person making the same, may demand and receive fifty cents.

2. It shall and may be lawful for any ordained minister of the gospel in regular communion with any society of christians, and



every such minister is hereby authorized to celebrate the rites of matrimony according to the forms and customs of the church to which he belongs, between any persons within this state, between whom publication of bans shall have been duly made, or who shall produce a marriage license pursuant to the directions of this act, directed to any authorized minister of the gospel.

3. *Provided always*, That every such minister shall first produce credentials of his ordination, and also of his being in regular communion with the christian society of which he is reputed a member, to the court of the county or corporation in which he resides; shall take the oath of allegiance to this commonwealth, and enter into bond, with two or more sufficient securities, in the sum of fifteen hundred dollars, payable to the governor for the time being, and his successors, conditioned for the true and legal performance of this trust: Whereupon such court is hereby required to grant such minister a testimonial in the following form, given under the hand and seal of the then sitting judge or senior magistrate, and attested by the clerk, to wit: "*This shall certify to all whom it may concern, that at a court held for \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand \_\_\_\_\_ hundred and \_\_\_\_\_, A. B. produced credentials of his ordination, and also of his being in regular communion with the \_\_\_\_\_ church; took the oath of allegiance to this commonwealth, and entered into bond as required by 'An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy; and that he is thereby authorized to celebrate the rites of matrimony agreeable to the forms and customs of the said church, between any persons to him regularly applying therefor within this state. Given under my hand and seal, the day and year above written.'*" Every testimonial so obtained, shall be taken as good and sufficient authority for celebrating the rites of matrimony according to law: *Provided*

*nevertheless*, That no testimonial shall be granted to any minister who is itinerant, or who is not stated and settled within some parish, or with some christian congregation within this commonwealth.

4. *Provided also*, If any authorized minister shall himself at any time decline, or be ejected from his office by the church to which he belongs; or if any of his securities shall give him notice in writing, that they desire to be released from their suretyship, in either of these cases, if he refuses or neglects to give up his testimonials, to the court from which they were obtained, any one of his securities, without instituting a suit, may proceed against him as if they were special bail in an action of debt, until he is thereunto compelled, or gives them sufficient caution for their indemnification.

5. It shall and may be lawful for the people called quakers and menonists, or any other christian society, that have adopted similar regulations in their church, to solemnize their own marriages, or to be joined together as husband and wife, by the mutual consent of the parties openly published and declared before their congregations when convened for religious worship, in the manner, and agreeable to the regulations that have heretofore been practised in the respective societies.

6. And whereas some magistrates and others, not authorized by law, have been induced by the want of ministers to solemnize marriages:

matrimony according to the forms of his church.

How they are to obtain testimonials of their authority to solemnize marriages.

Form of the testimonial.

Not to be granted to itinerant ministers.

When and how the securities of an ordained minister may compel him to surrender his testimonial, or give them counter security.

Quakers and menonists, &c. may solemnize marriages in the manner heretofore practised.





Certain marriages solemnized by magistrates, confirmed.

7. *Be it enacted*, That all such marriages openly solemnized, and made at any time before the first day of July, one thousand seven hundred and eighty-five, and which shall have been made, consummated by the parties cohabiting together as husband and wife, shall be taken, and they are hereby declared good and valid in law; and all and every person or persons solemnizing such marriages, are and shall be exonerated from all pains and penalties, as if they had been authorized ministers: *Provided always*, And it is the true intent and meaning of this act, that nothing herein contained, shall extend or be construed to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of consanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a husband or wife, then alive.

Fee for a marriage.

8. Instead of the fees heretofore prescribed by law, any authorized minister may demand and receive in current money for the celebration of every marriage, the sum of one dollar.

Penalties on ministers, clerks and readers, for refusing to marry, publish the bans, or exacting more than legal fees.

9. If any minister shall refuse to celebrate the rites of matrimony for the fees herein before allowed him, or shall exact other or greater fees; or if he or any parish reader or clerk, shall refuse to publish the bans, or to certify the same when required for the fee aforesaid, or exact any other or greater fee, every person so offending, shall forfeit and pay fifty dollars to the party grieved for every such offence, recoverable in any court within this commonwealth, by action of debt or information.

Marriages to be registered.

10. And that a register of all marriages may be preserved: *Be it enacted*, That a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of quakers, menonists, and other societies that solemnize their marriages by the consent of the parties taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk, (as the case may be) transmitted to the clerk of the county or corporation, wherein the marriage is solemnized, within twelve months thereafter, to be entered on record by the clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The clerk shall be entitled to demand and receive of the party so married, the sum of twenty-five cents for recording such certificate, and giving the bearer a receipt therefor.

11. Every minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the clerk of the court in due time, shall forfeit and pay the sum of sixty dollars; and if the clerk of any county shall fail to record such certificate, he shall forfeit and pay the like sum of sixty dollars, to be recovered with costs of suit, by the informer, in any court of record.

Manner of issuing marriage licenses.

12. Every license for marriage shall be issued by the clerk of the court, of that county or corporation wherein the *feme* usually resides, in manner following, that is to say: the clerk shall take bond, with good security, for the sum of one hundred and fifty dollars, payable to the governor of the commonwealth for the time being, and his successors, for the use of the commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every clerk failing herein, shall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry, shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of

Where either of the parties is an infant.



every such infant, shall be personally given before the said clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, one of which witnesses shall personally appear before the said clerk, and make oath or affirmation (as the case may require) that he saw the father or guardian, whose name is annexed to such certificate, subscribe or acknowledge the same; and thereupon the clerk shall issue a license, and certify that bond is given, and every clerk is hereby authorized to administer such oath, or affirmation, as aforesaid; and if the parties or either of them be under the age aforesaid, he shall also certify the consent of the father or guardian, and the manner thereof, to any justice sworn in the commission of the peace, who is hereby authorized and required to sign and direct the same: and every license so obtained and signed, and no other whatsoever, is hereby declared to be a lawful license; and if any county or corporation court clerk shall in any other manner, issue or certify any marriage license, or if any person whatsoever shall presume to sign or direct such license, in other manner, or without such certificate, as is by this act required, every person so offending, shall be imprisoned one whole year without bail or mainprize, and shall forfeit and pay fifteen hundred dollars, recoverable in any court of record within this commonwealth.

Penalty for issuing or signing a license contrary to this act.

13. If any person whatsoever since the eighth day of December, one thousand seven hundred and eighty-eight, hath, or at any time hereafter, shall marry within the following degrees, that is to say: If the son hath married, or shall marry his mother or stepmother, the brother his sister, the father his daughter, or his son's daughter, or his daughter's daughter, or if the son hath married, or shall marry the daughter of his father, begotten and born of his stepmother, or the son hath married or shall marry his aunt, being his father's or his mother's sister, or hath married or shall marry his uncle's wife, or the father hath married, or shall marry his son's wife, or the brother hath married, or shall marry his brother's wife, or any man hath married, or shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the definitive sentence or judgment of the high court of chancery; and the attorney general, upon any information made to him of any such marriage, shall, and may exhibit a bill to the judge of the said court, against any persons so unlawfully married, who shall be compelled upon oath to answer the same; and upon such bill and answer, and the depositions of witnesses, where the same shall be necessary, the said court shall and may proceed to give judgment, and to declare the nullity of such marriage, and moreover may punish the parties by fine; and if the court see fit, may cause the parties to give bond with sufficient surety, that they will not cohabit hereafter, in such penalty as the said court shall judge reasonable: *Provided always*, That no punishment by fine shall be imposed on any person until the same shall have been assessed by a jury, duly impanelled at the bar of the said court: *And provided also*, That nothing herein contained, shall be construed to render illegitimate, the issue of any marriage so annulled.

Marriages within certain degrees to be annulled, and the parties separated.

Duty of the attorney general, when informed of any such marriage.

14. If any person or persons within this commonwealth, being married, or who shall hereafter marry, do at any time after the commencement of this act, marry any person or persons, the former husband or wife being alive, every such offence shall be felony, and

Felony to marry a second time, the former husband or wife being alive.





## Provisoos.

the person or persons so offending, shall suffer death as in cases of felony; and the party and parties so offending, shall receive such and like proceeding, trial, and execution within this commonwealth, as if the offence had been committed in the county where such person shall be taken or apprehended: *Provided*, That nothing herein contained, shall extend to any person or persons, whose husband or wife shall be continually remaining beyond the seas by the space of seven years together, or whose husband or wife shall absent him or herself, the one from the other, by the space of seven years together, in any part within the United States of America or elsewhere, the one of them not knowing the other to be living within that time: *Provided also*, That nothing herein contained, shall extend to any person or persons, that are or shall be at the time of such marriage divorced by lawful authority, or to any person or persons where the former marriage hath been, or hereafter shall be by lawful authority, declared to be void and of no effect, nor to any person or persons for or by reason of any marriage had or made, or hereafter to be had or made within age of consent: *And provided also*, That no attainder for the offence made felony by this act, shall make or work any corruption of blood, or forfeiture of estate whatsoever.

In what case a  
feme of twelve and  
under fourteen  
years shall forfeit  
her inheritance by  
marrying.

15. If any *feme sole* of the age of twelve, and under fourteen years, shall marry any person contrary to the will or consent of her father or guardian, and without legal publication of the bans, then the next of kin to such *feme*, to whom the inheritance should descend or come, shall have right to enter upon and take possession of all lands, tenements, hereditaments, and other real estate whatsoever, which such *feme*, at the time of her marriage had in possession, remainder, or reversion, and shall have, hold, occupy and enjoy the same to him or her, and the representatives of his or her stock, with all the immunities and privileges thereto belonging, during the time of such coverture; but after determination thereof, all such estate, and the possession, reversions and remainders, rights, immunities, and privileges, shall immediately revest, be, and remain in the said *feme*, and her heirs, other than her husband; and she and they, and every of them, may re-enter and take possession thereof, as if this act had never been made.

Penalty for pub-  
lishing bans, or  
marrying any ser-  
vant, without the  
master's consent.

16. If any minister, clerk or reader, shall wittingly publish the bans of marriage between any servants by act of assembly, indenture or custom, or between any free person and such servant, or if any minister shall knowingly marry any such without certificate from the master or owner of every such servant, that it is with his or her consent, every minister, clerk, or reader, so offending, shall forfeit and pay two hundred and fifty dollars for every such offence, recoverable in any court of record of this commonwealth; and every such servant, so married without consent of his or her master or owner, shall serve him or her, and his or her assigns, one whole year after all other time of service is expired, or pay him or her twenty dollars; and every free person so marrying such servant, shall pay the master or owner, twenty dollars for his or her own use, recoverable in any county or corporation court, with costs, or shall well and faithfully serve such master or owner one whole year in actual service.

On servants mar-  
rying, and free per-  
sons marrying  
them.

Punishment of  
white persons  
marrying negroes  
or mulattoes.

17. And for preventing white men and women intermarrying with negroes or mulattoes: *Be it enacted*, That whatsoever white man or woman, being free, shall intermarry with a negro or mulatto





man or woman, bond or free, shall by judgment of the county court, be committed to prison, and there remain six months, without bail or mainprize; and shall forfeit and pay thirty dollars to the use of the parish.

18. No minister or person whatsoever within this commonwealth, shall hereafter presume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every such marriage, two hundred and fifty dollars, one half to the use of the commonwealth, and the other half to the use of the informer; to be recovered with costs, by action of debt, bill, plaint or information, in any court of record within this commonwealth, wherein no *essoin*, protection or wager of law, shall be allowed.

Penalty on minister marrying a white person to a negro or mulatto.

19. And whereas women, as well maidens as widows, and wives having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, have been often times taken by misdoers contrary to their will, and afterwards married to such misdoers, or to others by their consent, or defiled: *Be it further enacted*, That whatsoever person or persons shall take any woman so against her will unlawfully, that is to say, maid, widow or wife; such taking and the procuring and abetting to the same, and also receiving wittingly the same woman so taken, against her will, shall be felony, and that such misdoers, takers, and procurers to the same, and receivers, knowing the said offence in form aforesaid, shall be reputed and judged as principal felons: *Provided always*, That this act shall not extend to any person taking any woman, only claiming her as his ward or bond woman.

Felony to take any woman unlawfully against her will.

Proviso.

20. If any person above the age of fourteen years, shall unlawfully take and convey away, or shall cause to be unlawfully taken or conveyed away, any maiden or woman child unmarried, being within the age of sixteen years, out of, or from the possession, and against the will of the father or mother of such maiden or woman child, or out of, or from the possession, and against the will of such person or persons as then shall happen to have by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman child, and being thereof duly convicted, shall suffer imprisonment, without bail or mainprize, for any term not exceeding two years, as shall be adjudged against him.

Punishment for unlawfully taking a *female* sole under sixteen years, from her father, mother, or others having the care of her.

21. If any person or persons shall so take away, or cause to be taken away, as is aforesaid, and deflower any such maid or woman child, as is aforesaid, or shall, against the will or knowledge of the father of any such maid or woman child, if the father be in life, or against the will or knowledge of the mother of any such maid or woman child, having the custody and governance of such child, if the father be dead, by secret letters, messages, or otherwise, contract matrimony with any such maiden or woman child, every person so offending and being thereof lawfully convicted, shall suffer imprisonment of his body, by the space of five years, without bail or mainprize.

For deflowering or marrying any such *female* so unlawfully taken.

22. All the fines which shall or may be imposed by virtue of so much of this act, as relates to incestuous marriages, shall be to the use of the poor of the county wherein the offence or offences shall be committed; and one moiety of all the forfeitures arising under this act, and not otherwise appropriated, shall be to the use of the

Appropriation of fines.



commonwealth, and the other moiety to the party or parties who shall sue for the same.

Repealing clause. 23. All and every other act and acts, and clause or clauses of acts, for so much thereof as relates to any thing within the purview of this act (except as herein after provided) are hereby repealed, and made void: *Provided always*, That nothing in this act contained, shall be construed to repeal an act, intituled, "*An act concerning incestuous marriages*," or one other act, intituled, "*An act for the punishment of the crime of bigamy*," or one other act, intituled, "*An act against forcible and stolen marriages*," for so much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this act; but the said recited acts, as to all such offences, shall be, and remain in full force, in the same manner as if this act had never been made.

Commencement. 24. This act shall commence and be in force from and after the passing thereof.

CHAP. 43.—An ACT to reduce into one, the several acts concerning mills, mill-dams, and other obstructions of water courses.

(Passed December 21, 1792.)

Method of proceeding where the person desirous of building a mill owns the land only on one side of the stream.

1. *Be it enacted by the general assembly*, That when any person owning lands on one side of any water course, the bed whereof belongeth to himself, or to the commonwealth, and desiring to build a water grist mill on such lands, and to erect a dam across the same, for working the said mill, shall not himself have the fee simple property in the lands on the opposite side thereof, against which he would abut his dam, he shall make application for a writ of *ad quod damnum*, to the court of the county wherein the lands proposed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the county, and if not, then to his agent therein, if any he hath, which court shall thereupon order their clerk to issue such writ, to be directed to the sheriff, commanding him to summon and impanel twelve fit persons, to meet upon the lands so proposed for the abutment, on a certain day, to be named by the court, and inserted in the said writ, of which, notice shall be given by the sheriff, to the proprietor or his agent, as before directed, if neither of them were present in court at the time of the order made.

Notice to be given to the proprietor of the opposite land.

Charge to the jury. 2. The freeholders taken shall be charged by the said sheriff impartially and to the best of their skill and judgment, to view the said lands so proposed for an abutment, and to locate and circumscribe, by certain metes and bounds, one acre thereof, having due regard therein to the interests of both parties, and to appraise the same according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and say to what damage it will be of to the several proprietors, and whether the mansion house of any such proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree, fish of passage and ordinary navigation will be obstructed; whether by any, and by what means such obstruction may be prevented, and whether in their opinion the health of the neighbours will be annoyed by the stagnation of the waters.

On return of the inquest, the persons concerned to be summoned.

3. The inquest so made and sealed by the said jurors, together with the writ, shall be returned by the said sheriff to the succeed-





ing court, who shall thereupon order summonses to be issued to the several persons, proprietors, or tenants of the lands so located or found liable to damage, if they be to be found within the county, and if not, then to their agents therein, if any they have, to shew cause why the party applying should not have leave to build the said mill and dam.

4. In like manner, if the person proposing to build such mill and dam, shall have the fee simple property in the lands on both sides the stream, yet application shall be made to the court of the county wherein the mill house will stand, for a like writ; which writ shall be directed, executed and returned, as prescribed in the former case.

Where the lands on both sides belong to the person intending to build a mill.

5. If on such inquest, or on other evidence, it shall appear to the court that the mansion house of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they shall not give leave to build the said mill and dam; but if none of these injuries are like to ensue, they shall then proceed to consider whether, all circumstances weighed, it be reasonable that such leave should be given, and shall give, or not give it accordingly; and if given, they shall lay the party applying, under such conditions for preventing the obstruction, if any there will be, of fish of passage and ordinary navigation, as to them shall seem right.

In what cases the court shall not give leave to build mills.

Where they may at their discretion.

6. If the party applying, obtain leave to build the said mill and dam, he shall, upon paying respectively to the several parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become seized in fee simple of the said acre of land. But if he shall not within one year thereafter, begin to build the said mill, and finish the same within three years, and afterwards continue it in good repair for public use, or in case the said mill or dam be destroyed, if he shall not begin to rebuild it within one year after such destruction, and finish it within three years, the said acre of land shall revert to the former proprietor and his heirs; unless at the time of such destruction of the said mill or dam, the owner thereof be an infant, *feme covert*, imprisoned, or of unsound mind; in which case, he shall be allowed the same terms for beginning and completing the said mill or dam, after such disability removed.

Party obtaining leave to pay the value of the land and the damages to the persons entitled thereto.

To begin and finish his mill within certain periods.

7. The inquest of the said jurors, nevertheless, or opinion of the court, shall not bar any prosecution or action which any person would have had in law had this act never been made, other than for such injuries as were actually foreseen and estimated by the said jury.

Actions for damages not estimated by the jury, not barred by the inquest.

8. When any owner of a mill heretofore or hereafter established by law, may think it necessary to raise his dam, the court of the county wherein the pond lieth, upon application to them, shall grant a second writ of *ad quod damnum*, to value the additional damage done thereby, under the same rules and regulations as are herein before directed.

How owners of mills may obtain leave to raise their dams.

9. All millers shall well and sufficiently grind the grain brought to their mills, and in due turn as the same shall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part shall be ground into meal; and one sixteenth part, and no more, of that, the remainder of which shall be ground into homminy or malt. And every miller or occupier of a mill, who shall not well and sufficiently grind as aforesaid, or not in

Duty of millers.

Toll.

Penalty for not grinding well and in due time, or for



taking more than  
legal toll.

due time as the same shall be brought, or take or exact more toll, shall, for every such offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with costs, before a justice of peace of the county where such offence shall be committed. And where the miller shall be an indented servant or slave, he shall, upon the first conviction for such offence, receive thirty lashes; and upon a second conviction, fifty lashes, on his bare back, well laid on, in lieu of the forfeiture aforesaid; but upon a third conviction, his master or owner shall be liable to pay two dollars and fifty cents, and so for every such offence by such servant or slave afterwards committed: *Provided*, That every owner or occupier of a mill may grind his or her own grain at any time.

Millers to keep  
sealed measures  
and toll dishes.

10. Every owner or occupier of a mill shall keep therein sealed measures of half bushel and peck, and a toll dish sealed, and shall measure all grain by strike measure, under the penalty of paying two dollars and fifty cents for every such failure; recoverable with costs, before a justice of the peace for the county wherein such mill shall be, to the use of the informer. And if the miller be a slave or servant, his master or owner shall be liable to the penalty; or if the owner of such mill shall not live within the same county, nor have any known attorney therein, the appearance of such servant or slave before the justice to whom such complaint shall be made, shall be sufficient for him to proceed against the master or owner, but if he or she, his or her known attorney lives in the county, his or her appearance shall be required.

When they shall  
not keep hogs at  
large at their  
mills.

11. No owner or tenant of any mill, not having fifty acres of land adjoining thereto, shall keep any swine uninclosed at such mill, on pain that the same shall be liable to be taken and converted to his own use by the proprietor or tenant of any adjacent lands, or by any other person authorized by them.

Their duty where  
public roads pass  
over their dams.

12. The owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top through the whole length thereof, and shall keep and maintain a bridge of the like breadth with strong rails on each side thereof over the pier head, flood gates, or any waste, cut through or round the dam, under the penalty of one dollar and sixty-seven cents for every twenty-four hours failure; but where a mill-dam shall be carried away, or destroyed by tempest, or accident, the owner or occupier thereof, shall not be liable to the said penalties from thenceforth until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Regulation re-  
specting locks and  
slopes in the dams  
of mills already  
built.

13. Where the owner of any mill now standing, or licensed to be built, hath by any act of assembly been compelled to make locks, slopes, or opening for navigation or the passage for fish, the same shall be continued under the conditions imposed by such act, and shall be deemed sufficient in law, so long as the dam now standing or building shall remain: But it shall not be lawful to rebuild such dam in future, but on enquiry by jury into the obstructions of fish and navigation, and the means of preventing the same, and the final order of the court, to be applied for, and conducted in the manner before directed in other cases.

Navigation or the  
passage of fish not  
to be obstructed  
by dams, hedges,  
&c. without leave,

14. It shall not be lawful for any person to erect or fix on any water course, any dam, hedge, weir, seine, drag, or other stoppage, whereby navigation or the passage of fish may be obstructed, save only for the purpose of working some machine or engine, useful to





the public, in which cases the same proceedings shall be had, as as in the case of  
are before directed in the case of a water grist mill, or for the pur- mills.  
pose of a water grist mill, before provided for. And where any such  
are now standing, or shall hereafter be erected or fixed, the owner  
or tenant of the lands adjacent thereto (whether the same were  
erected or fixed by himself or another) shall cause it to be abated.  
And whoso offendeth herein, shall be deemed guilty of a nuisance.

15. And whereas many of the rivers and creeks of this common-  
wealth are stopped and choaked by stones, trees, stumps and rubbish  
therein, and by hedges, weirs, or stone stops, in or across the same,  
whereby the passage of boats and other vessels, and of fish, is ob-  
structed, to the great damage of the inhabitants of this common-  
wealth, and the hindrance of trade and commerce: *Be it therefore* County courts  
may contract for  
clearing rivers and  
creeks of certain  
obstructions to  
navigation, &c.  
*enacted*, That where any river or creek shall be in one county only,  
the court of such county shall be, and is hereby empowered and  
required, to contract and agree with any person or persons they  
shall think fit to clear the same, as far as it shall be passable for  
loaded boats, if such obstructions were removed, and to levy so  
much money in their county levy as shall be sufficient to discharge  
such agreement; and where any river or creek in this common-  
wealth shall divide two or more counties, the courts of every such  
county shall join in such agreement, and levy the charge thereof in  
proportion to the number of tithables in each county: *Provided* Not to extend to  
obstructions re-  
movable only by  
the force of gun-  
powder.  
*always*, That nothing herein contained shall be construed to oblige  
any county court or courts to contract for removing rocks, or such  
obstructions, in any river or creek, as cannot be removed without  
the force of gunpowder: *And provided also*, That the courts of the  
counties adjoining to the rivers Meherrin, Nottoway, Roanoke and  
Rappahannock, above the falls thereof, shall not be obliged by this  
act to contract for the clearing the said rivers or any of them. Certain rivers ex-  
cepted.

16. Whosoever shall fell any tree or trees, or cause the same to Penalty for felling  
trees into rivers  
or creeks.  
be felled into any river or creek, or any run whereon there is or  
shall be erected any public bridge or bridges within this common-  
wealth, and shall not cut and carry away the same within the space  
of forty-eight hours after such felling, shall forfeit and pay two dol-  
lars and fifty cents for every tree so felled and not cut and carried  
away, to be recovered before a justice of the peace of the county  
where such offence shall be committed, and shall be to the use of  
the informer.

17. All and every act and acts, clause and clauses of acts, con- Repealing clause.  
taining any thing within the purview of this act, shall be, and the  
same are hereby repealed: *Provided always*, That nothing in this Proviso.  
act shall be construed to affect any rights, remedies, fines, forfeitures,  
penalties or amercements, which have accrued, been vested, or in-  
curred prior to the commencement of this act.

18. This act shall commence and be in force from the passing Commencement.  
thereof.

CHAP. 41.—An ACT to reduce into one, the several acts for regulating the  
inoculation of the small pox within this commonwealth.

(Passed December 21, 1792.)

1. *Be it enacted by the general assembly*, That if any person or Penalty for im-  
porting matter to  
inoculate for the  
small pox.  
persons whatsoever, shall wilfully or designedly presume to import  
or bring into this commonwealth, from any country or place what-  
ever, the small pox, or any variolous or infectious matter of the said





distemper, with a purpose to inoculate any person or persons whatever, or by any means, to propagate the said distemper within this commonwealth; he or she so offending, shall forfeit and pay the sum of three thousand dollars for every offence so committed; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county, where the offence shall be committed, for the use of the poor of the said county, to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this commonwealth.

2. But for as much as the inoculation for the small pox may, under peculiar circumstances, be not only a prudent, but necessary means of securing those who are unavoidably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations:

License to inoculate may be granted by the magistrates of the county or corporation.

3. *Be it therefore enacted*, That if any person shall think him or herself, his, or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the sheriff of any county, or to the mayor or chief magistrate of any city or corporation; and the said sheriff, mayor, or chief magistrate shall immediately, and without loss of time, summon all the acting magistrates of the said county, city, or borough, to meet at the most convenient time and place, in the said county, city, or borough, and the said magistrates, or such of them as shall be present, being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the housekeepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small pox, either in his, or her own house, or at any other place.

Or by the housekeepers residing within a certain distance.

Under certain rules and regulations for confining the infection, and penalties for transgressing them.

4. No patient in the small pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and clothes, as to be perfectly free from infection, under the penalty of seven dollars for every offence, to be recovered, if committed by a married woman, from her husband; if an infant, from the parent or guardian; and if a servant, or slave, from the master or mistress.

5. Every physician, doctor, or other person undertaking inoculation at any house, shall cause a written advertisement to be put up at the nearest public road, or other most notorious adjacent place, giving information that the small pox is at such house, and shall continue to keep the same set up so long as the distemper or any danger of infection remains there, under the penalty of seven dollars for every day that the same shall be omitted or neglected, to be paid by the physician or doctor, if the offence shall be committed



when he is present, or by the master, mistress, manager or principal person of the family respectively, if the offence is committed in the absence of the physician or doctor. Every physician, doctor, or other person undertaking inoculation at any public place or hospital, for the reception of patients, shall, before he discharges the patients, or suffers them to be removed from thence, take due care that their persons and clothes are sufficiently cleansed, and shall give such patients respectively, a certificate under his hand, that in his opinion they are free from all danger of spreading the infection, under the penalty of ten dollars for every offence; and every person wilfully giving a false certificate, shall be subject to the penalty of thirty dollars.

6. If any person who hath not had the small pox, other than those who have been, or intend to be inoculated, shall go into any house where the small pox then is, or intermix with the patients and return from thence, any justice of the peace for the county or corporation, on due proof thereof, may by warrant cause such person to be conveyed to the next hospital where the small pox is, there to remain until he or she shall have gone through the distemper, or until the physician or manager of the hospital shall certify that in his opinion such person cannot take the same; and if such person be not able to pay the necessary expenses, the same shall be paid by the county.

7. And whereas checking the progress of the said distemper, where it may accidentally break out, or the regulations which may be established for carrying on inoculation, may be attended with some expense, it shall and may be lawful for the justices of every county, at the time of laying their levy, and for the mayor, recorder, aldermen and common council of any city or borough, at such time as they shall judge most convenient, to levy on the tithable persons in their said county, city, or borough so much money as will be sufficient to defray the expenses necessarily incurred for the purposes aforesaid, in any such county, city or borough.

Expenses incurred in checking the distemper, or carrying on inoculation, how to be defrayed.

8. If any sheriff, mayor, or chief magistrate, shall, upon application to him made, in manner aforesaid, refuse, or unreasonably delay to summon the magistrates of any county, city, or borough, for the purpose aforesaid, or if any magistrate so summoned, shall refuse or neglect to attend, according to such summons, every such sheriff, mayor or chief magistrate shall forfeit the sum of three hundred dollars upon his refusing or neglecting to give such notice without reasonable excuse; and every other magistrate so refusing or neglecting, without reasonable excuse, shall also forfeit and pay the sum of twenty dollars to the person aggrieved.

Penalty on the sheriffs and magistrates for neglect of the duties hereby enjoined.

9. If any person or persons shall inoculate or procure inoculation for the small pox, to be performed within this commonwealth, without obtaining a license or consent to inoculate in the manner herein before directed, or shall not conform to the rules and regulations prescribed by such justices, he, she or they shall forfeit and pay respectively, for every such offence, the sum of three hundred dollars; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the county wherein such offence shall be committed, for the use of the poor of the said county; to be recovered with costs, by action of debt, bill, plaint or information, in any court of record within this commonwealth; and moreover, it shall and may be lawful for any justice of the

Penalty for inoculating without license, &c.





Unless some person of the family has caught the infection in the natural way.

Penalty for propagating the small pox contrary to this act.

Penalties, how recoverable and appropriated.

Repealing clause.

Commencement.

Ordinary licenses how to be obtained.

Ordinary keeper to give bond and security.

peace, upon information given to him upon oath, to issue his warrant against any person so offending, and upon sufficient proof before him made, to cause such offender to give security in such reasonable penalty as such justice shall think fit, for his or her good behaviour, and upon failure to give such security, to commit him or her to the jail of his county or corporation, there to be confined until such security be given: *Provided nevertheless*, That no person shall incur the penalties imposed by this act for inoculating his family without conforming to the rules herein prescribed, if any person of such family shall have before taken the infection in the natural way; nor shall any patient in the small pox be compelled to remove from his usual place of residence.

10. Every person wilfully endeavouring to spread or propagate the small pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in special cases, shall be subject to the penalty of fifteen hundred dollars, or suffer six months imprisonment, without bail or mainprize.

11. All the penalties inflicted by this act, may be recovered with costs, by action of debt or information, in any court of record, where the sum exceeds twenty dollars, and where it is under or amounts to that sum only, by petition in the court of the county where the offence shall be committed; and where they are not hereby appropriated otherwise, shall be one half to the informer, and the other half to the commonwealth, or the whole to the commonwealth, where prosecution shall be first instituted on the public behalf alone.

12. All acts, and so much of any act of general assembly, as contains any thing contrary to this act, is hereby repealed.

13. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 45.—An ACT for regulating ordinaries, and restraint of tippling houses. (Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That every person intending to set up or keep an ordinary, or house of public entertainment, shall first petition the court of that county wherein such ordinary is intended to be, and obtain a license for keeping the same; and the justices of the court to whom such petition shall be exhibited, shall thereupon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors to the prejudice of the neighbouring inhabitants; and if such petition shall appear reasonable, such court is hereby authorized, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence till the next court held for the said county, and no longer; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit.

2. *Provided always*, That before issuing such license, the petitioner shall enter into bond, with sufficient security, to the effect following: "*Know all men by these presents, that we A. B. and C.*



*D. are held and firmly bound to \_\_\_\_\_, governor of the commonwealth of Virginia, in the sum of one hundred and fifty dollars; to which payment, well and truly to be made, to the said \_\_\_\_\_, or his successors, we bind ourselves, and every of us, our and every of our heirs, executors and administrators, jointly and severally, by these presents. Witness our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, in the year one thousand \_\_\_\_\_ hundred and \_\_\_\_\_.*

*"The condition of the above obligation is, such, that whereas the above bound A. B. hath obtained a license to keep an ordinary at \_\_\_\_\_, in the county of \_\_\_\_\_, if therefore the said A. B. doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet for travellers, and stableage, fodder, and provender, or pasturage and provender, as the season shall require, for their horses, for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of \_\_\_\_\_, and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void, otherwise to remain in full force."*

Condition of the bond.

3. The justices of every county court within this commonwealth, shall at their March court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, provender, stableage, fodder and pasturage, and may increase or lessen the rates as often as they shall see cause, but shall not fail to fix the rates at least twice in a year, under the penalty of fifteen dollars, on every member of such court so failing; and every ordinary keeper shall within one month after the rates so set, or from time to time altered, set up a copy of the rates aforesaid, attested by the clerk of the court, in some public entertaining room in his tavern, to be placed not more than six feet above the floor, and so long as he neglects this after the month, he shall have no right to demand any price for a rated article, and moreover be subject to a penalty of seven dollars. And if any ordinary keeper shall demand and take greater price for any drink, diet, lodging, provender, stableage, fodder, or pasturage, than by such rates shall be allowed, he or she so offending, shall forfeit and pay twelve dollars for every such offence to the informer, recoverable with costs before a justice of the peace of the county wherein such ordinary shall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not setting up a table of the same, shall be recoverable by action of debt or information, by any person who will sue for the same, in any court of record within this commonwealth.

Rates for liquors, diet, &c. to be fixed by the county courts;

And tables thereof to be set up by the ordinary keepers.

Penalty on them for taking more than the legal rates.

4. If any person without such license, shall open a tavern, or sell by retail, wine, beer, cider, rum or brandy, or other spirituous liquors, or a mixture thereof, to be drank in or at the place where it shall be sold, or in any booth, arbor, or stall, such offence shall be deemed a breach of good behaviour, and he or she so offending, shall moreover forfeit and pay the sum of thirty dollars, to be applied towards lessening the county levy.

Penalty for opening tavern or retailing liquors without license, for the first offence.

5. Every person having been convicted of keeping a tippling house, or retailing liquors as aforesaid, who shall afterwards be guilty of the same offence, and be thereof again convicted, shall by the court before whom such conviction shall be had, be commit-

For the second offence.





ted to prison, there to remain for and during the term of six months, without bail or mainprize.

This act to be given in charge to grand juries in county courts.

6. The presiding justice present shall give this act in special charge to the grand jury of the county, at every grand jury court; and whenever any prosecution or suit shall be instituted thereupon, the court before whom the same shall be depending, shall proceed to speedy trial thereof, out of course, and without delay.

And to be put in execution by every justice of the peace.

7. And every justice of the peace is hereby required and strictly enjoined to cause this act to be put in strict execution within his county. And if any justice, either from information, his own knowledge, or other just cause, shall suspect any person of keeping a tippling house, or retailing liquors as aforesaid, he is hereby empowered and required, to summon such person to appear before him, together with such witnesses as he may judge necessary; and upon the person's appearing, or failing to appear, if the justice, upon examining the witnesses upon oath, shall find sufficient cause, he may, and is hereby required to direct the attorney for the commonwealth in such county, to institute a prosecution against such person on the public behalf, which such attorney is hereby required to institute accordingly. And such justice may also cause the person so suspected, to give bond with two sufficient securities, for his or her good behaviour, for the term of one year, the principal in the sum of one hundred and fifty dollars, and the securities in the sum of seventy-five dollars each; and upon failing to give such bond and security within three days, after being thereto required, such person may be committed to the jail of the county, there to remain until he or she shall give bond and security accordingly; and if such person shall afterwards during the said term, keep a tippling house, or retail liquors as aforesaid, the same shall be, and is hereby declared a breach of the good behaviour, and of the condition of such bond.

Proviso in favor of brewers and distillers.

8. *Provided always*, That nothing in this act shall extend or be construed to prohibit any person or persons from retailing such liquors as shall actually have been made from the produce of such person's own estate, or brewed or distilled by him, her or them, or those in his, her, or their employ; nor to prohibit any merchant or person keeping store for the sale of merchandize, from retailing liquors, so as such liquors be not drank, or intended to be drank at the house or plantation where the same shall be sold. And in case any dispute shall arise as to the making such liquors, the burthen of proof shall be on the defendant.

Penalties on ordinary keepers suffering gaining in their houses.

9. If guests or others play at any game contrary to law in a tavern, or in any out-house, or under any booth, arbor, or other place upon the messuage, or tenement in possession of any tavern keeper, and the keeper thereof shall not endeavour to hinder them, and if they persist, to give information of the offence, and to give in the names of the offenders, within one month thereafter, to the court, or to two justices of the peace, his license shall be revoked by the court, and he shall pay to the informer twenty dollars, unless, being summoned to shew cause to the contrary, he appear and prove such facts, as induce them to believe, not only he did not know of, but moreover, that he had no reason to suspect such playing.

Or tippling on the Sabbath day.

10. If the keeper of any ordinary or tavern, shall in his house, suffer any person to tipple or drink more than is necessary, on the Lord's day, or on any other day set apart by public authority for





religious worship, or shall harbour or entertain any seaman, contrary to law, such tavern keeper shall be deprived of his license in the same manner.

11. If any keeper of a tavern or ordinary, shall sell drink to any sailor in actual pay on board any ship, on credit, he or she shall not recover any money, tobacco, or other commodity, for liquors so sold upon credit, but every such debt, obligation or specialty, shall be void; and if any warrant, petition, writ or bill be prosecuted or exhibited against any person for the same, such warrant, petition, writ or bill, shall be dismissed, and the defendant shall have double costs.

Tavern keepers not to sell liquor on credit to sailors.

12. If any ordinary keeper shall sell any liquor whatsoever, upon credit, to any sailor in actual pay on board any ship or other vessel, or shall harbour, entertain, or sell drink to any such sailor, without license from the master of the vessel or ship, to which the sailor belongs, such ordinary keeper shall for every such offence, forfeit and pay two dollars to the master of the ship or vessel, recoverable with costs, before any justice of the peace of the county, wherein such ordinary keeper lives.

Penalty for so doing, or for harbouring sailors.

13. No keeper of a tavern shall recover more than five dollars for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank, in the place where it is kept; and a written contract or bond, or other specialty for payment, delivery, or security of money or other thing, for performance of any work or service, whereof the whole, or any part, shall have become due for liquors so sold, shall be void.

In what cases debts for retailed liquors shall be void.

14. The several corporation courts within this commonwealth, shall have the sole power of granting or revoking licenses to ordinary keepers, within their respective jurisdictions: *Provided*, That such licenses be granted in the manner above directed by this act.

Corporation courts to have the sole power of granting licenses within their jurisdictions.

15. All the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs, in any court of record within this commonwealth.

Penalties, how recoverable and appropriated.

16. Every act of assembly concerning any thing within the purview of this act, shall be, and the same is hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Repealing clause. Proviso.

17. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 46.—An ACT reducing into one, the several acts for unlading ballast, and burial of dead bodies from on board ships; and prohibiting the putting sick or disabled seamen and servants on shore, without providing for their maintenance.

(Passed December 23, 1792.)

1. *Be it enacted by the general assembly*, That the court of every county or corporation adjacent to any navigable river or creek, shall from time to time as vacancies happen, appoint one or more ballast masters, residing near the places where vessels usually ride in such river or creek, to be overseers and directors of the delivery and unloading of ballast from on board any ship or vessel, within a certain district to be by them ascertained.

Ballast masters how to be appointed.



How qualified.

2. Every person so appointed, shall make oath in open court that he will, when required, diligently attend the delivery of ballast, from on board any vessel within his district; and will not knowingly permit the same, or any part thereof, to be cast into the water where navigable, but will direct, and to the best of his power, cause all such ballast to be brought and laid on shore at some convenient place or places, where it may not obstruct navigation, nor be washed into the channel; and that he will truly and faithfully execute his office, without favor, partiality, or malice.

Penalty for failing or refusing to qualify and act.

3. If any person so appointed, and having notice thereof by an attested copy of such appointment, issued by the clerk and served by the sheriff or other officer, which notice the clerk is hereby directed immediately to issue, and the sheriff or other officer to serve, and thereupon make due return to the next court, shall fail to appear before the said court, unless hindered by sickness or other legal disability, or being there, shall refuse to be sworn, he shall be fined sixty dollars; and the court shall upon every such failure or refusal, or in case of death, removal, or other legal disability of any person so appointed, proceed to appoint another in his room.

Vacancies, how to be supplied.

Their duties.

4. Every ballast master so appointed, upon receiving notice from the master or chief officer on board of any ship or vessel within his district, that ballast is to be discharged from such vessel, shall go on board the same, and attend until the whole ballast is delivered, which he shall see brought on shore, and laid at some convenient place near the vessel, where it may not obstruct navigation, nor be washed into the channel, shall thereupon give such master or officer a certificate that the ballast has been duly unladen from on board such ship or vessel, and shall receive from him for the services so performed, eighty-three cents per day.

Penalty for neglect.

5. Every ballast master failing to do his duty according to this act, shall forfeit sixty dollars for each default.

Duty of masters of vessels intending to unlade ballast.

6. Every master or chief officer of any ship or vessel having ballast to unlade, shall give notice in writing of the time he proposes to land the same, to the ballast master of the district; and if he shall presume to land or cast overboard any ballast therefrom, without giving such notice, or contrary to the orders he shall receive from the ballast master of the district, he shall forfeit one hundred and fifty dollars for every such offence or failure.

Dead bodies from on board ships how to be buried.

7. When any person shall die on board of any ship or vessel within this commonwealth, the master thereof shall cause the dead body to be brought on shore, and there buried, at least four feet deep, above high water mark, or be subject to the like penalty of one hundred and fifty dollars.

Defendants in suits for penalties to be held to bail.

8. If any suit be brought for the penalties in this act before contained, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ that bail is required.

Penalty on masters of vessels putting sick or disabled sailors on shore.

9. If any master or commander of any ship or vessel, shall discharge, or cause to be put on shore, any sick or disabled sailor or sailors, belonging to his ship or vessel, not entitled to his or their discharge by the contract between them, or any servant, without taking due care for his or their maintenance and cure, he shall forfeit and pay sixty dollars to the overseers of the poor of the county or corporation wherein such sailor or sailors, or servant, shall be put on shore, to be recovered with costs, by action of debt or information, in any county or corporation court, and applied towards lessening





ing the poor rates of the county or corporation; and he shall also be liable to the action of the overseers of the poor of that or any other county or corporation wherein such sailor or sailors, or servant, shall become chargeable, for all expenses of maintenance and cure; and in any such action or actions, the defendant may be ruled to give special bail, and the clerk shall endorse on the writ, that good bail is required: *Provided*, That the said overseers of the poor, or either of them, shall make affidavit of the cause of action, before a magistrate, which shall be certified to the clerk of the court who shall issue the writ.

Defendants to be held to bail.

10. All and every act, clause and clauses of acts, within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Repealing clause. *Proviso.*

11. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 47.—AN ACT to prevent the malicious burning any house; for taking away clergy from certain offences; and for punishing accessories to felonies, and receivers of stolen goods.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That all and every person and persons, that shall at any time, either in the night or the day, maliciously, unlawfully and willingly, burn any house or houses whatsoever, or shall comfort, aid, abet, assist, counsel, hire, or command any person or persons to commit any of the said offences, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall be adjudged a felon, and shall suffer death as in case of felony, and shall not have the benefit of his, her, or their clergy.

Felony without benefit of clergy to burn any house.

2. All and every person and persons, that shall at any time, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods or chattels, wares or merchandises, of the value of four dollars or more, although the owner of such goods, or any other person or persons, be or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy.

Benefit of clergy not to be allowed to those who feloniously break any store or warehouse, and take therefrom money, or goods of the value of four dollars.

3. If any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainer; and every such accessory shall suffer the same punish-

When accessories in felonies shall be prosecuted in the same manner as if the principals had been attainted.



ment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted.

Receiver of stolen goods may be punished as for misdemeanors, although the principals be not convicted.

4. It shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessory, if the principal shall be afterwards convicted.

Repealing clause.

5. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as herein after provided) shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Proviso.

Commencement.

6. This act shall commence and be in force from and after the passing thereof.

CHAP. 43.—An ACT declaring who shall be deemed citizens of this commonwealth, and pointing out the mode by which the right of citizenship may be acquired or relinquished.

(Passed December 23, 1792.)

Who shall be deemed citizens.

1. *Be it enacted by the general assembly*, That all free persons born within the territory of this commonwealth, all persons not being natives, who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner herein after mentioned.

How emigrants other than alien enemies may become citizens.

2. And that all persons other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being quakers or menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of October annually, transmit to the executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept for that purpose, for which he shall receive the fee of one dollar) shall be entitled to all the rights, privileges, and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations aforesaid; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of three hundred dollars therein.

Exception as to holding offices.

3. *Provided always*, That no person having or holding any place or pension from any foreign state or potentate, shall be eligi-





ble to any office, legislative, executive or judiciary, within this commonwealth.

4. And for the encouragement of useful artisans, mechanics and handicraft tradesmen, to migrate into this commonwealth, *Be it further enacted*, That all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto; and shall moreover be exempted from all taxes whatsoever, except the land tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

Artisans, mechanics, &c. migrating to this state exempted from taxes for a certain time.

5. Whensoever any citizen of this commonwealth, shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them or two of them proved in the general court, any district court, or the court of the county or corporation where he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth; such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

How a citizen may expatriate himself.

6. All persons who having accepted a military commission from the United States, or any of them, or who having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States, on the nineteenth day of April, in the year one thousand seven hundred and seventy-five, or at any time since, have at any time during the late war, voluntarily joined themselves to the fleets or armies of the king of Great Britain, or have voluntarily borne arms against the United States, or any of them, in any garrison, port or fortification, or other place whatsoever, within their territories, or on their coasts; or have been owner, or part owner of any privateer, or other armed vessel cruising against the said United States, or any of them; and all and every person and persons, who at any time acted as a member of the board, commonly called the board of refugee commissioners, at New York, or under the authority, or by the direction of the said board, shall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all such persons shall be equally subject to the pains, penalties and disabilities of this act, although they have been heretofore, or shall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the same, as if they had not taken the said oaths.

Certain descriptions of persons prohibited from migrating to or becoming citizens of this commonwealth.

7. All and every person and persons prohibited by this act, from migrating to this commonwealth, who shall be found within the same, shall and may be prosecuted in the general court of this commonwealth, as for a misdemeanor; and if upon trial, such person or persons be found guilty of a breach of this act, he or they shall be imprisoned, for a term not exceeding six months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the discretion of the said court, in any sum not exceeding three hundred dollars, and shall moreover stand committed, until such fine be paid; and if the person or persons so convicted, shall

How they may be punished for contravening this act.





be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, such person or persons shall be committed to the public jail; and upon proof being made of the identity of such person or persons, he or they shall be thereafter imprisoned in the public jail for the space of five years, without bail or mainprize, and shall moreover forfeit all his goods and chattels, lands and tenements, for the use of the commonwealth; and if any person prohibited by this act from migrating to this commonwealth, shall institute any suit or action whatsoever, in any of the courts of this commonwealth, against any citizen or other person entitled to become a citizen thereof, the defendant or defendants may plead this act, in bar of such action or suit; and if upon the trial of the cause, it shall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cause of action arose within the same, after the commencement of this act, the jury shall find for the defendant or defendants, and thereupon, judgment shall be given against the plaintiff, with treble costs of suit; and the clerk of the court in which such cause shall be tried, shall, within one month thereafter, transmit a copy of the record, together with the names of the witnesses sworn on the part of the defendant or defendants, to the attorney general; who shall, at the next succeeding session of the general court, file an information, or prefer an indictment to the grand jury, against the person or persons against whom such verdict and judgment shall have been given.

In suits brought by them against citizens, judgment shall be rendered for the defendants, with treble costs.

All other former residents allowed to return.

But not to vote at elections, or hold offices.

Nothing herein to contravene the treaty with Great Britain.  
Repealing clause.

Commencement.

8. All persons resident in this, or any other of the United States, on the aforementioned nineteenth day of April, and not included in the above description, who are at present prohibited by law from migrating to this state, shall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenship, except, that they shall not be capable of voting for members to either house of assembly, or of holding or accepting any office of trust or profit, civil or military.

9. *Provided*, That nothing herein contained, shall be construed so as to contravene the treaty of peace with Great Britain.

10. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

11. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 49.—An ACT against divulgers of false news.

(Passed December 27, 1792.)

Preamble.

1. Whereas many idle and busy headed people, do forge and divulge false runours and reports:

Divulgers of false news to be fined, and bound to good behaviour.

2. *Be it therefore enacted by the general assembly*, That what person or persons soever, shall forge or divulge any such false reports, tending to the trouble of the country, he shall be by the next justice of the peace sent for, and bound over to the next county court; where if he produce not his author, he shall be fined forty dollars, (or less if the court think fit to lessen it,) and besides give bond for his good behaviour, if it appear to the court that he did maliciously publish or invent it.



3. All and every act and acts, clause and clauses of acts, coming Repealing clause. within the purview of this act, shall be, and the same are hereby repealed.

4. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 50.—An ACT to prevent unlawful hunting.

(Passed December 23, 1792.)

1. Whosoever shall hereafter use any fire hunting, or the killing Penalty for fire hunting. of any deer by such means, on any patented lands, every person present at such fire hunting, shall forfeit and pay four dollars for every such offence; which penalties shall and may be recovered before any justice of the peace in the county where any of the offences aforesaid shall be committed, and shall be divided, one half to the use of the overseers of the poor of the district wherein the offence was committed, and the other half to the person or persons who will inform for the same. And every justice of the peace before whom information shall be made of any of the offences aforesaid, shall take for evidence the confession of the party accused, or the oath of one credible witness; and where the owner of any lands shall prosecute for any unlawful hunting and ranging on his lands, the oath of such owner shall be sufficient evidence to convict the offender; but in that case the whole penalty shall go to the overseers of the poor.

2. If any person shall shoot, or otherwise kill any tame deer Penalty for killing tame deer. having a bell or collar on its neck, every person so offending, shall be liable to an action of trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed.

3. All and every act and acts, coming within the purview of this Repealing clause. act, shall be, and the same are hereby repealed: *Provided always,* Proviso. That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

4. This act shall commence in force from and after the passing Commencement. thereof.

CHAP. 51.—An ACT concerning the right of entry, and giving remedy against collusive judgments of lands, and wrongful alienations thereof in certain cases.

(Passed December 19, 1792.)

1. Where a husband doth lose the lands of his wife by default, Preamble. it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right:

2. *Be it therefore enacted by the general assembly,* That a woman after the death of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's consent, will A widow not barred of right of entry into her land lost by her husband's default. When the wife may defend a suit





brought for her  
lands.

render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right.

When the rever-  
sioner may defend  
a suit brought  
against the tenant  
for life.

3. If tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir, or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender.

When the dying  
seized of a dis-  
seisor shall not  
take away the  
right of entry.

4. The dying seized hereafter of any disseisor having no right or title, shall not be such descent in law as to take away the right of entry from such as, at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title.

Husband's con-  
veyance of his  
wife's lands not to  
prejudice her or  
her heirs.

5. No feoffment, or other conveyance, or other act or acts hereafter to be made, suffered or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife: but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance or act to the contrary notwithstanding.

Repealing clause.

6. All and every statute and act, or clause and clauses of any statute or act, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided nevertheless*, That nothing herein contained shall be construed to affect any right which may have accrued, or been vested before the commencement of this act.

Proviso.

Commencement.

7. This act shall commence in force from and after the passing thereof.

#### CHAP. 52.—An ACT reducing into one the several acts for the settlement and regulation of ferries.

(Passed December 26, 1792.)

Public ferries es-  
tablished.

1. *Be it enacted by the general assembly*, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry, that is to say:

Over the bay of  
Chesapeake.

##### *Over the bay of Chesapeake.*

From York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceased, on Hungar's river, for a man or horse passing singly, three dollars and thirty-three cents; for a man and horse, or if there be more, for each, two dollars and fifty cents.

Over Patowmac  
river and its  
branches.

##### *Over Patowmac river and its branches.*

From Henry Ashton's to Cedar Point Maryland;  
From Thomas Rowe's to Cedar Point,  
From Hooe's to Cedar Point,

For 2 For a  
MAN. HORSE.  
Cents. Cents.

42 42  
42 42  
33 33



	For a Man. Cents.	For a Horse. Cents.
From Lawrence Washington's to Maryland, opposite,	42	42
From Boyd's hole to Maryland, opposite,	42	42
From the land of Gustavus Scott in Stafford to Kennedy's in Maryland,	33	33
From Newport in Prince William to Chamberlayne's in ditto,	33	33
From the town of Carbury to Brook's in ditto,	25	25
From William Chifton's to Wallis's in Maryland,	17	17
From Hereford's in Doeg's neck, to the lower side of Pamunkey in Maryland,	17	17
From Hugh West's to Frazier's or Addison's in ditto,	17	17
From Hunting creek warehouse landing, to Frazier's point or Addison's in ditto,	17	17
From Floyd's to Powell's,	8	8
Over Occoquan in Prince William to Colchester,	4	4
Over Nominy in Westmoreland,	6	6
From Mason's to Rock creek in Maryland,	6	6
From Earl Tankerville's in Loudoun, to Maryland,	6	6
From Noland's in Loudoun, to Arthur Nelson's land in ditto,	5	5
From Swearingen's, Berkeley, to his land in ditto,	5	5
From Harper's to his land in ditto,	5	5
From Foreman's, Frederick, to the opposite shore,	5	5
From Aubrey's in Loudoun, to Hook's in Maryland,	5	5
From Watkins's, opposite Canagochee creek, to Wade's in ditto,	4	4
From John Rout's land, Shenandoah, to the fork, or over the main river,	4	4
From Kersey's or Burwell's to the land of Landon Carter,	5	5
From Key's landing, to William Fairfax, or his heirs' land,	5	5
At Williams's Gap, from Lord Fairfax's land, to Ralph Wormeley's land,	5	5
From Samuel Earl's Frederick, to Lord Fairfax's,	4	4
From Thomas Bryan Martin's, Frederick, over the Shenandoah,	5	5
From John Turberville's at Dial's landing, over Patowmac,	8	8
From Ralph Humphrey's, Hampshire, over the south branch of Patowmac,	6	6
From Thompson Mason's, deceased, Loudoun, over Patowmac,	8	8
From R. Parker's, Hampshire, over south branch Patowmac,	5	5
From Isaac Parsons's, over the south branch of Patowmac, opposite,	6	6
From John Pankake's, Hampshire, over the south branch ditto, to Jacob Earsom's,	5	5
From B. Rankin's over the Shenandoah, to the land of G. W. Fairfax,	5	5
From Peter Harbout's, Loudoun, over Goose creek, to the land of Dr. W. Selden,	4	4
From Edward Snicker's at Williams's gap, over the Shenandoah, opposite,	5	5
From Cuthbert Bullitt's, over the mouth of Quantico,	8	8
From J. Chenowith's, Hampshire, across Cacapon, opposite, to James Largent's,	6	6
From Elias Poston's ditto, across to his land opposite,	6	6
From C. Buck's, Frederick, across north fork of Shenandoah, mouth of Passage creek, to the land of Isaac Hite, opposite,	5	5
From Thomas Buck's, to the lands of G. Harden and Rowley Smith,	4	4
From Luther Martin's, Hampshire, across Patowmac, at the confluence of the north and south branches, opposite,	6	6
From Jos. Berry's across the Shenandoah, opposite,	5	5
From J. Chenowith's, Hampshire, across Great Cacapon creek, opposite,	6	6
From Conrad Glaze's, Hampshire, across south branch Patowmac, to his land opposite,	6	6
From Rees Prichards, Hampshire, over the north fork of Great Cacapon, opposite,	6	6
From Benjamin Edwards's, Goose Creek, Loudoun, over Patowmac, opposite,	6	6
From John Hooe's, Prince William, across Occoquan, to the old warehouse,	4	4



For a	For a
MAN.	HORSE.
Cents.	Cents.

Over Rappahan-  
nock and its  
branches.

*Over Rappahannock, and its branches.*

From Urbanna to Locust point,	4	4
From the lands of J. Chowning, Lancaster, to Urbanna,	33	33
From Byrd's to Williams's,	33	33
Over Piscataway creek in Essex,	4	4
Over Rappahannock creek, Richmond county,	4	4
From the landing of William Ritchie on Tappahannock to the causey on the opposite side,	17	17
From Fauntleroy's to the landing of William Ritchie,	25	25
From Ley's land to Robinson's,	8	8
From Leeds town to the causey opposite,	8	8
From the public landing at Port Royal, to Gibson's warehouse landing,	6	6
From Taliaferro's landing to Carter's,	4	4
From Alexander's to Conway's,	4	4
From the wharf at Newport to Ball's landing,	4	4
From Johnson's plantation, Spottsylvania, to Washington's in King George,	4	4
From Fredericksburg warehouse landing to Hunter's landing,	4	4
From Henry Fitzhugh's, Fredericksburg, to the land of William Fitzhugh opposite,	4	4
From Falmouth to the land of Francis Thornton,	4	4
From the land of William Richard's, Stafford, to those of Simon Miller, Culpeper,	4	4
From the lands of Gawin Lawson, Stafford, to Fielding Lewis's land, Spottsylvania,	4	4
From Port Royal in Caroline, to the lands of Francis Conway, vested in James Bowie, jun.,	5	5
From the lands of Landon Carter, Culpeper, across at Norman's ford,	4	4
From Francis Thornton's lands in Spottsylvania, to the town of Falmouth, opposite, across his bridge,	4	4
At Lowry's across Corotomon river,	6	6

On Piankatank  
river.

*On Piankatank river.*

From Seaton's to the opposite shore,	8	8
From Turk's to the opposite shore,	5	5

On York river and  
its branches.

*On York river and its branches.*

From York town to Gloucester town,	13	13
From Cappaheick to Scimino,	25	25
From the brick house to Dudley's,	25	25
From West point to Dudley's,	13	13
From Fox's in Gloucester, to Scimino over York river,	25	25
From Frazier's to the causey opposite,	8	8
From Mantapike on G. Brooke's land, to the causey on William Frazier's land,	8	8
From Waller's to Walkerton,	8	8
From Brick house to West point,	13	13
From Sweet hall to Claiborne Gooch's,	8	8
From the land of John Watkins, New Kent, to Thomas Claiborne's land, King William,	8	8
From Chamberlayne's to Claiborne's,	8	8
From the land of George Webb, to the opposite landing,	8	8
From Blackwell's to King's,	4	4
From Taylor's land to Nelson's,	4	4
From Philip Aylett's, at his warehouse across Mattapony opposite,	4	4
From Dabney's to Page's,	4	4

On James river  
and its branches.

*On James river and its branches.*

From Hampton to Brook's point,	4	4
To Norfolk or Nansmond town,	100	100
From the borough of Norfolk to Portsmouth or Washington,	5	5
From Portsmouth to Washington,	5	5
From Hodsden's over Pagan creek to Smithfield,	6	6





	For a MAN. Cents.	For a HORSE. Cents.
From Charles Fulgham's to Smithfield,	8	8
From Cockfield's point to Robert Peale's near Sleepy hole,	8	8
From Jeremiah Godwin's over the western branch to James Benn's,	6	6
From Benjamin Bascomb's over Bennet's creek to James Buxton's,	6	6
From John Reid's over the western branch to Jeremiah Godwin's,	4	4
From the lands of Lemuel Riddick in Suffolk, to Jordan's,	6	6
From Hog island in Surry to Higginson's landing, so long as the ferry keeper shall keep up the bridge over Hog island creek at his own charge,	21	21
From Jamestown to Swan's point, <i>vice versa</i> ,	21	21
From Cobham to Jamestown, under the regulation of trustees to let the ferry, and superintend the boats,	21	21
From Edloe's land in Charles City, to his land in James City,	8	8
From Edloe's land in Charles City, to Armstead's point,	5	5
From Dancy's land in Charles City to Barrett's,	8	8
From Deloney's to Edloe's,	10	10
From Westover to Maycox's or Coggin's point,	10	10
From Bermuda Hundred to Shirley,	8	8
From Bermuda Hundred to City point,	25	25
From the land of Thomas Pierce, Smithfield, across Pagan creek to the land of William Hodsden,	17	17
From the land of William Black, Chesterfield, over James river to Rocketts,	6	6
From the land of David Ross, Bedford, across James river at the mouth of Archer's creek, to the land of R. Bolling,	4	4
From William Anderson's, Botetourt, over James river to William Crow's shore,	4	4
From the lands of William Pride, over Persie Stile's creek, to the land of Peter Baugh,	4	4
From the land of Henry Trent, Amherst, over the Fluvanna, to the land of Nicholas Davies,	4	4
From Nicholas Lewis's, Albemarle, across the Rivanna,	4	4
From Charles Woodson's in Henrico, to Tarlton Woodson's, Chesterfield,	6	6
From Bolling's point, over Appomattox river,	3	3
From the lands of Henry Batte, Henrico, to the glebe lands Verina,	5	5
From Charles Ellis's to Daniel Weldon's,	4	4
From the land of Reuben Coutts, in Richmond, to Manchester town,	6	6
From the upper landing in Beverley town, to the land of Anderson Britton,	4	4
From the land of Matthew Woodson, to the Manacon town,	4	4
From the land of Benjamin Jude, to the land of William Reynolds,	4	4
From the land of Samuel Woodson to the land of Jacob Michaux,	4	4
From the land of John Woodson, below the mouth of Willis's creek, to his lands on the opposite side of the river,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, across the Fluvanna, to the lands of Joseph Mayo, deceased,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, across the Rivanna, to the lands of David Ross,	3	3
From the said lands of David Ross, to the lands of Joseph Mayo, deceased,	4	4
From the lands of John Harvie, across the Rivanna, to the lands of David Ross,	4	4
From the lands of David Ross, across the Fluvanna, to his lands on the opposite shore,	4	4
From John Lynch's, Bedford county, across the Fluvanna,	4	4
From the land of John Nicholas, over Slate river,	4	4
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferson,	4	4
From the land of William Howard, over Rockfish river to his lands opposite,	4	4



		For a MAN.	For a HORSE.
		Cents.	Cents.
	From ditto, over the Fluvanna, to Thomas Anderson's landing, and from said Anderson's to Howard's,	4	4
	From the land of Nicholas Cabell, in the county of Amherst, at the mouth of Swan creek, over the Fluvanna, to the land of Francis W. Spencer,	4	4
	From the land of John Cabell, in the county of Buckingham, over the Fluvanna, to his land on the opposite shore,	4	4
	From the land of Joseph Cabell Megginson, in the county of Buckingham, over the Fluvanna, to his land on the opposite shore,	4	4
	From the land of G. Stovall, over the Fluvanna, to his land op- posite,	4	4
	From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river,	4	4
	From the land of John Buchanan's heirs, to his lands opposite,	4	4
	From Branch's, on James river, to the opposite shore,	4	4
	From the land of Jacob Michaux, to the land of Thomas Atkins,	4	4
	From the land of Wilson Cary Nicholas, across the Fluvanna, to the lands of John Hardy,	4	4
	From the lands of Henry Martin, jun., Fluvanna, over the north fork of James river,	6	6
	From the land of John Grymes, deceased, over the west branch of Elizabeth river, to the land of M. Warren opposite,	6	6
	From Richmond to Manchester, over Mayo's bridge,	6	6
Over Nottoway river.	<i>Over Nottoway river.</i>		
	From Thomas Drew's land, to Dr. Browne's,	4	4
	From Bolton's land, to Simmons's land,	4	4
	Over the toll-bridge in Southampton,	4	4
On Roanoke river and its branches.	<i>On Roanoke river and its branches.</i>		
	From Skipwith's land, Mecklenburg, to the opposite shore,	4	4
	From the land of John Dix, Pittsylvania, across the Dan river, to his land opposite,	4	4
	From Anderson's land, to Taylor's land,	4	4
	From the land of Sir Peyton Skipwith on the north side, to his land on the south side, over the rivers Staunton and Dan,	4	4
	From Maynard's to Field's,	4	4
	From Samuel Jones's land, to Frederick Jones's land,	4	4
	From Fox's land, to Blanton's land,	4	4
	From Ross's land, to Royster's land,	4	4
	From William Black's land to the opposite shore,	4	4
	From Hunt's land, to Abney's land,	4	4
	From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte,	4	4
	From Black's land, to Brua's ford,	4	4
	From Simm's land in Halifax, to Randolph's land, across Staun- ton river,	4	4
	From Morton's landing, to Watkins's,	4	4
	From the land of Edward Mitchell, Necklenburg, across the Roanoke, to the land of Christopher Haskins,	4	4
	From John Flin's, across Staunton river, to Thomas Hoard's, op- posite,	4	4
	From Cargill's in Charlotte, to Foushee's land, Halifax, over Staunton river,	4	4
	From Watkins's to Murphy's,	3	3
	From Irving's landing across Dan river to Davenport's,	4	4
	From John Bibb's across Staunton river to the opposite shore,	4	4
	From Cole's to Fuqua's,	4	4
	From Boyd's to Hapson's,	4	4
	From the lands of John Owen's, Pittsylvania, over the Dan, to Sylvester Adams's land,	4	4
	From the land of Margaret Royd, over Dan, to her land opposite,	4	4
	From the land of Nathaniel Terry to Fuqua's,	4	4
	From Dix's to Green's,	4	4





	For a MAN. Cents.	For a HORSE. Cents.
From Harman Miller's, Halifax, to Legrand's over Dan river,	4	4
From Jones's in Halifax, to Selden's opposite, across the Dan,	4	4
From David Brandon's over Dan, to the land of John Lawson,	4	4
From John Boyd's over Dan, to the land of Patrick Boyd,	4	4
From the land of Joseph Eckolls, Halifax, across Staunton river, opposite,	4	4
From Wade's, over Staunton, to the opposite shore,	4	4
From John Ward's over Staunton, Bedford, to his land opposite,	4	4
From John Canefax's, Campbell, across Staunton, to Ward's op- posite,	4	4
From J. Harper's, across the Meherrin, over his bridge,	3	3
From the land of William Gee, across Meherrin, to his land op- posite,	3	3

*Ferries on the Ohio river and its branches.*On the Ohio river  
and its branches.

From the lands of Van Swearingen, Ohio county, across the Ohio,	8	8
From the land of David Chambers, Ohio county, across the Ohio, opposite,	8	8
From the land of George Cox, Ohio county, across Ohio oppo- site,	8	8
From the land of Absalom Wills, Ohio county, across the Ohio, opposite,	8	8
From the land of Reason Pomfrey, Ohio county, across the Ohio, opposite,	8	8
From the land of Jonas Minser, Ohio county, across the Ohio, opposite,	8	8
From the lands of Jesse Martin, across Monongahela, to the land of James Hord, on the opposite shore,	4	4
From the land of Jesse Martin, across Monongahela, to the shore of David Scott,	4	4
From the lands of James Cleland, Monongalia, across Cheat river,	4	4
From the lands of Andrew Ramsay, Monongalia, across to Wil- liam Morgan's, and from Morgan's to Ramsay's, the same,	4	4
From Josiah Prickett's, Monongalia, across the Monongahela, opposite,	4	4
From Robert Wood's, Ohio, across the Ohio, opposite,	8	8
From the land of John Henderson, Ohio, across the Ohio, oppo- site,	8	8
From the lands of Isaac Williams, Harrison county, across the Ohio, above and below the mouth of the Muskingum,	8	8
From the lands of Thomas Evans, across the Monongahela, at the mouth of Decker's creek, opposite,	4	4
From the lands of John Pettyjohn, Monongalia, across Tyger Valley river,	4	4
From the lands of Andrew Jee, over Cheat river, to Jacob Scott's shore,	4	4
From the lands of Thomas Butler, over Cheat river, to his land opposite,	4	4
From the land of Samuel Morton, Monongalia, across Big Sandy creek, to the land of John Connor, senior, opposite,	4	4
From the land of George Jackson, Harrison county, over Elk creek, opposite,	3	3
From the land of John Wickwire, Harrison county, over Tyger Valley river,	4	4
From the lands of John Jones, Ohio county, across the Ohio, opposite,	8	8
From the lands of David Scott, across Monongahela river, op- posite,	4	4
From the lands of Charles Prather, Ohio, across the Ohio, to the opposite shore,	8	8
From the lands of Charles Prather, Ohio, across the mouth of Buffaloe creek, to the opposite shore,	3	3
From the lands of Edward Duling, deceased, Ohio county, over Ohio river, opposite,	8	8



For a	For a
MAN.	HORSE.
Cents.	Cents.

From the lands of Edward Duling across the mouth of Fishing creek, to the land of Robert Woods;	3	3
From the lands of Robert Woods, Ohio, across the Ohio, opposite,	8	8
From the lands of George Hollinbough, Monongalia, across Monongahela, to the land of Asay Holl,	4	4
From the lands of Thomas Lewis, Kanawha county, across Ohio river, to the land of Isaac Greyham, opposite,	8	8
From the lands of Thomas Lewis, across the Kanawha river, to the lands of Robert Henderson, opposite,	6	6
From the land of Cornelius Brown, in Montgomery, over New river opposite,	4	4
From the lands of Samuel Pepper, at Buffaloe pond, Montgomery, over New river, opposite,	4	4
From the land of William Ingles, over New river, to the opposite shore,	4	4
From the land of John Anderson, over Greenbrier river, to the opposite shore,	5	5
From the land of Austin & Company, at the Lead Mines, Wythe, over New river, to the opposite shore,	4	4
From the lands of Thomas Herbert, in Wythe, across New river, to the opposite shore,	4	4
From the lands of Dudley Evans, Monongalia, over Monongahela river, to the lands of George Wilson,	4	4
From the lands of John Collins, Monongalia, over Monongahela, at the mouth of Robinson's run, opposite,	4	4
From the lands of James Caldwell, Ohio county, across the mouth of Wheeling creek, to the lands of Ebenezer Zane,	4	4
From the lands of Hezekiah Davison, Harrison county, over west fork of the Monongahela, to William Berkley's opposite,	4	4
From the lands of Edward Jackson, Randolph county, across Buchanan river, opposite,	4	4

Same rates, &c.  
at the opposite  
shores.

Rates for wheel  
carriages.

Tobacco, cattle,  
sheep, goats and  
hogs.

Penalty for taking  
greater rates.

County courts to  
direct the number  
of boats and  
hands, &c.

Owners of ferries  
to give bond and  
security.

2. The rates of ferries kept opposite to those above mentioned, shall be governed by the same rates and rules.

3. The transportation of the following things shall be at the rates following: For every coach, waggon, chariot, and the driver, the same as for six horses. For every four wheeled chaise, phaton, and driver, the same as for four horses. For every two wheeled riding carriage, the same as for two horses. For every hogshhead of tobacco, the same as for one horse. For every head of neat cattle, the same as for one horse. For every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse.

4. If the keeper of any ferry or toll-bridge shall demand and take from any person, a greater sum for the ferriage or toll, than is allowed by this act, such offender shall forfeit to the person so overcharged, the ferriage or toll demanded and received, and two dollars for every such offence; recoverable before any justice of the peace of the county.

5. The court of every county or corporation wherein a ferry is, or shall be appointed, shall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which shall be kept at each ferry respectively, and the owner of the land whereon any such ferry is, if he hath not already given bond and security, shall within six months from the commencement of this act, give bond with one security, in the court of the county or corporation wherein such ferry is, in the penalty of sixty dollars, with condition, that he will duly keep such ferry, or cause the same to be kept according to law, and will give immediate passage to all public messengers and expresses, when re-





quired from time to time. And in case any such person shall neglect or refuse to give such bond, or to cause the same to be given on his behalf, he shall forfeit and pay seven dollars for every month's refusal or neglect to the governor for the time being, and his successors, for the better support of the contingent charges of government; recoverable with costs, in any court of record, where the same shall be cognizable.

6. All expresses sent on public service by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, shall be accounted public messengers and expresses, and ferry free, within the condition and meaning of the bond aforesaid, in case the dispatch carried by such express, be endorsed "on public service," and signed on the superscription by the person sending the same.

Public expresses to be ferry free.

7. And for encouragement of ferry keepers, and in consideration of setting over public messengers, and the persons exempted by this act: *Be it further enacted*, That all the men attending the said ferries be free of county levies, and from all other public services of musters, constables, clearing highways, impressments and other things of like nature, and that keepers of ferries shall not be chargeable with any fee for giving bond; and if the county or corporation court shall find it requisite or useful that an ordinary be kept at any ferry, they may license such ferry keeper to keep ordinary, without any fee for the license, or obtaining the same, notwithstanding there be a sufficient number of other ordinaries in the same county or corporation: *Provided always*, That every ferry keeper so licensed to keep ordinary, shall give bond and security, and be liable to the same penalties as other ordinary keepers. And if any other person whatsoever shall for reward, set any person or persons over any river or creek, whereon public ferries are by this act appointed, he or she so offending, shall forfeit and pay twenty dollars for every such offence, one moiety to the ferry keeper nearest the place where such offence shall be committed, the other moiety to the informer; and if such ferry keeper informs, he shall have the whole penalty; to be recovered with costs.

Men attending ferries to be free from levies, musters, &c.

Owners may be licensed to keep ordinaries without fee.

Penalty on other person taking ferriages.

8. It shall be lawful for the court of the county of Norfolk, to let annually to the highest bidder, the ferries across Elizabeth river and the branches thereof, taking bond and good security for due payment of the money, and to apply the same as it may be received, towards lessening the county levy.

Court of Norfolk county to let ferries across Elizabeth river annually.

9. Where there is no ferry corresponding to one appointed by this act, it shall be lawful for the court of the county to constitute an opposite ferry, with the same rates. And the courts are empowered to appoint ferries over such rivers and creeks in their respective counties, as shall be deemed convenient and necessary.

County courts may establish ferries opposite to those now appointed.

10. All ferries heretofore established, and which have not been generally frequented for the space of two years, shall be, and the same are hereby discontinued, unless the persons entitled to keep the same, shall within six months after the passing of this act, procure all necessary boats and ferry-men, for the transportation of passengers at their respective ferries.

For what causes ferries heretofore established shall be discontinued.

11. All ferries now established, and which may be hereafter generally disused and unfrequented for the space of two years, shall be

For what causes those hereafter





established shall be discontinued.

likewise discontinued, unless necessary boats and ferrymen are prepared for the same, within the space of six months, after the expiration of the said two years. And all ferries which may be hereafter established, and which shall not be furnished with necessary boats and ferrymen within the space of six months after the establishment thereof, or shall at any time thereafter be generally disused and unfrequented for the space of two years, shall be, and the same are hereby discontinued.

The owners to be summoned on complaint, to shew why they should not be discontinued.

12. And it shall be lawful for the court of the county in which such ferry or ferries shall be, on complaint to them made, to summon the proprietor or proprietors of the same, to shew cause why it shall not be discontinued, and to decide according to the testimony adduced.

Ferry keepers may convey passengers, &c. from either side to the other.

13. It shall and may be lawful for any keeper of a ferry, to take into his boat or boats any passenger or passengers, carriages, horses, or cattle of any kind whatsoever on either side, to convey them over, and to receive the ferriage for the same; any law, usage or custom to the contrary, notwithstanding.

Repealing clause.

14. All and every other act and acts, clause and clauses of acts, heretofore made for, or concerning any matter or thing within the purview of this act, shall be, and are hereby repealed.

Commencement.

15. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 53.—An ACT directing the mode of suing out and prosecuting writs of *habeas corpus*.

(Passed December 19, 1792.)

Duty of officers and others to whom writs of *habeas corpus* are directed.

1. *Be it enacted by the general assembly*, That whensoever a *habeas corpus* shall be served by delivering it to the officer or other person to whom it is directed, or by leaving it at the jail or prison in which the party suing it out is detained, unless the warrant of commitment plainly and specially express the same to have been for treason or felony, if the charges of bringing the prisoner, to be ascertained by the court or judge who awarded the writ, and thereon endorsed, not exceeding seventeen cents per mile, be paid or tendered, and sufficient security to pay the charges of carrying him back, in case he be remanded, and that he will not escape by the way, be given, then the officer or his deputy, within three days after such service, or if the prisoner is to be brought more than twenty miles, within so many days more as will be equal to one day for every twenty miles of such further distance, shall make return of the writ, and bring the body of the prisoner, or cause it to be brought, before the proper judge or judges, according to the command thereof; and then shall likewise certify the true causes of his detainer or imprisonment.

Charges of conveying the prisoner before the court, &c. to be tendered to them.

2. Every such writ shall be signed by him who awards it.

By whom such writs shall be signed. How they shall be obtained.

3. And if any person shall be, or stand committed or detained as aforesaid for any crime, unless it be for treason or felony, plainly expressed in the warrant of commitment, in the vacation time, the prisoner not being convict, or in execution by legal process, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who at the request of such prisoner, or other person on his behalf, attested by two witnesses present at the delivery thereof, is hereby authorized, upon view of a copy of the warrant of commitment or detainer, or



otherwise upon affidavit made, that such copy was desired to be given by him in whose custody the prisoner is detained, to award and grant a *habeas corpus*, to be directed to the officer in whose custody the party committed or detained shall be, returnable immediately before the said judge, or any other judge of one of the said courts; and upon service thereof as aforesaid, the officer or his deputy, in whose custody the party is so committed or detained, shall within the times before respectively limited, bring the prisoner before the court, or one of the judges thereof before whom the writ is made returnable, or in case of his absence, before any other of them, with the return of the writ, and the true causes of commitment and detainer; and thereupon the judge before whom the prisoner shall be brought, shall, within two days thereafter, discharge him from imprisonment, taking his recognizance, with surety in any sum, according to the discretion of the judge, having regard to the circumstances of the prisoner and nature of the offence, for his appearance in the court of the district the term following, or in some other court where the offence is properly cognizable, as the case shall require; and then also certify the said writ with the return thereof, and the said recognizance into the said court where such appearance is to be made, unless it shall appear to the judge, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said judges, or some justice of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

When and before whom returnable.

How the prisoner when brought before the judge shall be discharged.

4. If any person shall have wilfully neglected, by the space of two terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such writ shall not be granted to him in vacation in pursuance of this act.

When writs of *habeas corpus* shall not be granted in vacation.

5. Any officer neglecting or refusing to make the return aforesaid, or to bring the body of the prisoner according to the command of the writ within the time aforesaid, or not delivering a true copy of the warrant of commitment and detainer within six hours after demand thereof made, to the prisoner, or person demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, shall forfeit to the prisoner three hundred dollars; to recover which the right of action shall not cease by the death of either or both the parties.

Penalty on the officer for disobeying the writ, &c.

6. No person who shall have been delivered upon a *habeas corpus*, shall afterwards be imprisoned or committed for the same offence, otherwise than by the order or process of the court wherein he shall be bound by recognizance, to appear, or some other court having jurisdiction of the cause.

No person to be again committed for the same offence, after a discharge on a *habeas corpus*.

7. A citizen of this commonwealth committed to prison in custody of an officer for any criminal matter, shall not be removed from thence into the custody of another officer unless it be by *habeas corpus*, or some other legal writ, or where the prisoner shall be delivered to the constable, or other inferior officer, to be carried to some common jail, or shall be sent by warrant of an overseer of the poor to some common workhouse, or shall be removed from one place to another, within the same county, in order to his discharge or trial in due course of law; or in case of sudden fire or infection, or other necessity, or where the prisoner shall be charged by affi-

Prisoners not to be removed from the custody of one officer to another, except in particular cases.





davit with treason, felony, or other crime, alledged to be done in any other of the United States of America; in which last case he shall on demand from the executive authority of the state from which he fled, be sent thither in custody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with sureties before them, to appear there, whichsoever shall seem most proper, if the said court or judges, upon consideration of the matter, shall think he ought to be put upon his trial.

Writs of *habeas corpus*, by whom they may be granted.

Penalty on a judge refusing to grant one.

8. Any person as aforesaid, may move for and obtain his *habeas corpus* as well out of the high court of chancery, as out of the general court, or out of the court of that district wherein he shall be confined. And if any judge of either of the said courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that such copy was denied as aforesaid, shall refuse any writ of *habeas corpus*, by this act required to be granted, being moved for as aforesaid, such judge shall be liable to the action of the party grieved.

Repealing clause.

9. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement.

10. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 54.—An ACT for improving the breed of horses.

(Passed December 24, 1792.)

Penalty for suffering a stoned horse to run at large.

After a second conviction the person taking him up may retain him.

Repealing clause.

Commencement.

1. *Be it enacted by the general assembly*, That no person shall suffer a stoned horse of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the enclosed ground of the owner or keeper; and whosoever shall wilfully or negligently do so after having been admonished to confine such horse, shall forfeit and pay twenty dollars to him who will sue for it, and double that sum for any such transgression, after one conviction; and if after a second conviction, the same horse be found so running at large, it shall be lawful for the person who will take him up, to retain him to his own use.

2. All and every act and acts, coming within the purview of this act, shall be, and the same are hereby repealed.

3. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 55.—An ACT reducing into one, the several acts making provision for the restraint, support and maintenance of idiots and lunatics, and the preservation and management of their estates.

(Passed December 24, 1792.)

Directors of the lunatic hospital incorporated.

1. *Be it enacted by the general assembly*, That the present directors of the hospital for the reception of persons of unsound minds, and their successors, to be chosen when vacancies happen, by the governor, with the advice of the council, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hospital for the maintenance and cure of persons of unsound minds; and by that name may sue and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate, real or personal, given or to be given to the said hospital, or to themselves, for the



use thereof; so as the annual revenue, or income of such donations, exceed not three thousand dollars; any law or statute to the contrary, notwithstanding.

2. The said directors shall, and may so often as it may be necessary, choose a president to continue in office until his death, resignation or removal; and they, or any seven of them, shall form a court, and shall from time to time ordain regulations for the government of the said hospital, and appoint a keeper and matron thereof, with nurses and guards when they shall be necessary; and provide for the accommodation, maintenance and cure of the patients remaining and to be received therein.

3. By warrant to be directed to the sheriff or serjeant, a justice of the peace shall order to be brought before him, any person whose mind, from his own observation, or the information of others, he shall suspect to be unsound, and with two other justices, who at his request shall associate with him, shall enquire into the state of such person's mind, and the said justices shall write down as well what shall appear to themselves, as what shall be testified by witnesses, touching the supposed insanity; and if two of them adjudge the party to be such a person as ought to be confined in the hospital, and some friend will not become bound with surety, to restrain and take proper care of him or her, until the cause for confinement shall cease, the said justices, or two of them, shall order the insane to be removed to the said hospital and there received, and for that end direct a warrant to the sheriff or serjeant, and a mittimus to the said keeper, transmitting therewith to the latter, the examinations of the witnesses, and a relation of such facts as the said justices shall think pertinent to the subject, to be laid before the directors.

4. The said keeper immediately after the person removed shall be delivered to him, the receipt of whom he shall acknowledge, in a writing signed by him, and delivered to the sheriff or serjeant, shall inform the president thereof who shall require his colleagues to meet as soon as may be, and at such meeting, which shall not unnecessarily be delayed, the directors if having considered the case, they concur in opinion with the justices, shall register the insane as a patient; but they may at any time afterwards deliver him or her to a friend, becoming bound to restrain and take care of him or her, in the same manner as the justices might have done.

5. If upon the examination of any person charged with being a lunatic or idiot, or otherwise insane, the said court shall be of opinion, that he or she ought not to be confined, it shall be lawful for the said court forthwith to discharge him or her.

6. When any insane person shall be removed as aforesaid to the said hospital, the justices before whom such person was examined, shall cause a certificate of the estate of such insane person, (if any there be,) and of the probable annual profits arising therefrom, to be sent to the said directors, together with the proceedings before directed, to be transmitted to them; and shall also certify such removal, and the insane's estate, to the next court to be holden for the county, city or borough whence such removal was. On receipt of such certificate, it shall be lawful for such court, to appoint a committee, into whose hands shall be committed such insane's estate, for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to, and

Annual income of the hospital not to exceed a certain sum.

Directors may choose a president.  
Seven to form a court.

Keeper, matron, nurses, guards.

Justices to examine insane persons.

And send them to the hospital, unless security be given for their restraint.

How to be received, examined and registered.

But may be delivered to their friends, giving security for their restraint. Or discharged, if the directors do not think it necessary to confine them.

Justices to send with an insane person a certificate of his estate.

Committees to be appointed to manage estates of insane persons.





Profits thereof to be applied to the support of them and their families.

Committees to give bond with security.

Penalty on the justices for neglect.

How a committee shall be appointed, where an insane person removes out of the state.

Insane infants to be examined and sent to the hospital.

Expense of maintaining and curing registered insanes, how to be defrayed.

Hospital accounts to be audited, and discharged as other public accounts.

be liable to be sued for all debts due from such insane person, in the same manner as executors to deceased persons are or may be; and out of the profits of such insane person's estate, the said court may direct to be defrayed, the expenses attending, as well the removal as the annual support of every such person while remaining in the said hospital, to be paid to the said court of directors: *Provided*, That such county, city, or borough court, may allow a reasonable support to the family of such insane person, (if any he hath,) out of his estate, so that neither the expenses attending such insane person, nor the allowance to his family, shall defeat the claims of his or her creditors. Upon the appointment of any such committee by the court as aforesaid, such court shall take bond, with good security, in a sufficient penalty, for the true and faithful performance of the trust thereby reposed in them; and in case of failure in the examining justices to perform the duties by this act enjoined, or in case of failure in any such court, to appoint committees as aforesaid, and to take such bond and security as is hereby required, the justices in either case so refusing or neglecting, shall forfeit and pay for every such refusal or neglect one hundred and fifty dollars, to be prosecuted for, and recovered by the attorney general in the name of the said court of directors, for the use of the commonwealth.

7. If any person possessing lands or other property in this commonwealth, shall have removed, or shall hereafter remove out of the state, the high court of chancery, or the court of the county or corporation in which the greater part of such person's property is, (on satisfactory proof being made that such person has become insane) shall and may appoint a committee, into whose hands shall be committed such insane's estate, for the safe keeping thereof, and for the necessary support of such insane, and his or her family; which committee shall give the like security, have the same powers, and be governed by the same rules, as are prescribed for the committees appointed by virtue of a certificate from justices of the peace, who have examined insane persons, agreeably to the directions of this act.

8. In case an infant child or ward, be suggested by the parent or guardian of such infant child or ward, to be of unsound mind, the court of the county, city or borough, wherein such person may reside, shall appoint three justices, to examine into the state of his or her mind; and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital, in the manner before directed, where he or she shall be received and registered.

9. The expense of maintaining and endeavouring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be); and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county, where the parent resides, and may in either case be recovered by an action, in the name of the directors, who shall account for what shall thus come to their hands.

10. Accounts of expenses incurred in the execution of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts.





11. The directors shall enlarge every person confined in the hospital, who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof. Persons cured of insanity to be discharged.

12. A person registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement, at the time of his or her removal to the hospital. Persons confined in the hospital to be deemed inhabitants of the counties from which they were removed.

13. In case of the absence of the president of the directors, the members present, may choose a president, *pro tempore*. Directors may choose a president *pro tempore*.

14. Any director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office. How directors shall vacate their seats.

15. Not more than two persons shall be paid as a guard for removing any insane person to the said hospital; which two, shall have the same allowance made them for their services, as is at present allowed to guards employed in removing criminals, and who shall be paid by the court of directors, out of the monies appropriated for the use of the hospital. Two guards allowed for removing an insane person to the hospital.

16. Where any person of unsound mind, is, or shall be seized or possessed of any lands, tenements or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act, shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expenses that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expenses, but shall remain subject to all incumbrances which the lease surrendered would have been subject to. Committee of insane persons seized of lands in trust, may execute such deeds, as the trustees could if of sound mind.

17. The lands, tenements and chattels, of all idiots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "*An act to reduce into one the several acts directing the course of descents.*" Estates of lunatics, &c. not sent to the hospital, to be kept as the estates of those who are.

18. All and every act and acts, clause and clauses of acts, concerning any matter or thing within the purview of this act, are, and shall be henceforth repealed. Repealing clause.

19. This act shall commence in force from and after the passing thereof. Commencement.

CHAP. 56.—An ACT to regulate impresses.

(Passed December 24, 1792.)

1. *Be it enacted by the general assembly,* That if any officer, soldier, commissary, quarter-master, or other person shall presume Officers and others making illegal impresses, to be ap-



prohended and secured until discharged by due course of law.

to take from any citizen or citizens of this commonwealth, any part of their property by way of impress, unless it be by warrant from the executive in case of actual invasion, or by the sheriffs or sergeants bringing criminals to a district court, or in such other cases as is or shall be expressly allowed by law, it shall be lawful for any magistrate in the county or corporation where the offence is committed, upon information on oath, to issue his warrant for the immediate taking and safe keeping of such offender or offenders, till they are delivered by due course of law; and all officers of the militia are hereby enjoined to support the civil power in securing and bringing such offenders to justice.

Repealing clause.

2. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as herein after provided) shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Proviso.

Commencement.

3. This act shall commence in force from and after the passing thereof.

#### CHAP. 57.—An ACT concerning tributary Indians.

(Passed December 24, 1792.)

Tributary Indians not to sell their lands to any other than persons of their own nation.

1. *Be it enacted by the general assembly*, That it shall not be lawful for any Indian king, or any other tributary Indians whatsoever, upon any pretence, or upon any consideration, to bargain and sell, or demise to any person or persons, other than to some of their own nation or their posterity in fee, for life or for years, the lands laid out, and appropriated for the use of such Indians, or any part or parcel thereof; or to bargain and sell as aforesaid, any other land whatsoever now actually possessed, or justly claimed, and pretended to, by the said Indians, or any of them, by virtue of any articles of peace made and concluded with such Indians by this commonwealth, or by the government existing previous to the establishment of this commonwealth, or by virtue of any other right and title whatsoever; and every bargain, sale, or demise, hereafter made contrary to this act as aforesaid, shall be, and is hereby declared to be null and void to all intents, constructions and purposes.

Penalty for purchasing or occupying their lands.

2. If any person or persons (other than the Indians and their posterity) shall from and after the publication of this act, presume to purchase or obtain any deed, or conveyance in fee, or any lease for years, from any of the tributary Indians of any lands, tenements, or hereditaments, laid out or appropriated, or now actually possessed, or justly claimed, or pretended to, by the said Indians, or shall occupy or tend any of the said lands by permission of the said Indians, or otherwise, every person so offending, and being thereof lawfully convicted in any court of record within this commonwealth, shall forfeit and pay the sum of one dollar and sixty-seven cents for every acre of land so purchased, leased, or occupied, and so for every year such person or persons may hold possession of such lands, by virtue of such purchase or lease; one moiety of which penalty shall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth.





3. The Indians tributary to this government, shall be well secured and defended in their persons, goods and properties; and whosoever shall defraud or take from them their goods, or do hurt or injury to their persons, shall make satisfaction, and be punished for the same according to law, as if the Indian sufferer had been a citizen of this commonwealth.

4. All acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 58.—An ACT declaring that joint tenancy may be pleaded in abatement.

(Passed December 19, 1792.)

1. *Be it enacted and declared by the general assembly*, That in all actions, real or mixed, which shall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant shall plead that he holdeth the tenements in demand, jointly with his wife, or any other person, not named in the writ, and shew forth a deed testifying the same, and demand judgment of the writ, and thereupon issue be joined, and it be found against the truth of the plea by him in manner and form aforesaid pleaded, the plaintiff shall recover his seizin of the tenements in demand, and double damages against the party by whom such plea shall have been pleaded; but if it be found that the matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated.

2. *Provided always*, That no such plea shall be admitted or received, in any case, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require.

3. All and every statute and statutes, act and acts, within the purview of this act, shall be, and the same are hereby repealed.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 59.—An ACT reducing into one, the several acts concerning the inspection of lumber.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits, as they shall deem necessary.

2. The inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security, in the sum of one thousand dollars, for the faithful performance of the duties of their office, and shall moreover take the following oath:—"I, do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality: So help me God." And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations; that is to say: all drawn white oak hogshead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch, if seasoned; white oak



hogshead heading, shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, seven eighths of an inch thick, when green, and three quarters of an inch, if seasoned: the staves and heading aforesaid, to be without sap: red oak hogshead staves, shall not be of less dimensions than, the white oak aforesaid: rough hogshead staves, shall be at least forty-two inches long, three and an half inches wide, and one inch thick: barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick: pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick: shingles shall not be less than eighteen inches long, four inches wide, and half an inch thick at the butt: and all plank, scantling, and ranging timber, shall be sound, and have square edges.

Of shingles.

Plank, scantling,  
&c. to have square  
edges.  
Inspectors' fees.

3. The inspectors of lumber, shall be entitled to demand and receive the following fees: for all hogshead staves and heading, twenty-five cents per thousand: for all pipe staves, thirty-three cents per thousand: for all barrel staves, seventeen cents per thousand: for all shingles, six cents per thousand: for all plank and scantling, fifty-six cents per thousand: and for all ranging timber, forty-two cents per thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not to be  
exported until in-  
spected.

4. It shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of such vessel shall produce inspector's notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board, but what is particularly entered in his manifest.

Vessels not to be  
cleared until the  
masters produce  
such certificate,  
and take an oath.

Penalty for export-  
ing it without.

Any master, commander or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

Repealing clause.  
Proviso.

5. All acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement.

6. This act shall commence in force from and after the passing thereof.





CHAP. 60.—AN ACT providing that the exception of nontenure of parcel, shall not abate the whole writ.

(Passed December 19, 1792.)

1. *Be it enacted and declared by the general assembly*, That by the exception of nontenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the nontenure which is alledged. Exception of nontenure of parcel, not to abate the whole writ.

2. All and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed. Repealing clause.

3. This act shall commence and be in force from the passing thereof. Commencement.

CHAP. 61.—AN ACT providing a method to help and speed poor persons in their suits.

(Passed December 24, 1792.)

1. *Be it enacted by the general assembly*, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of subpœna, according to the nature of his cause, nothing paying for the same. Poor persons may sue out original writs, &c. without paying therefor.

2. The said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made, who shall do their duties without any reward for their counsels, help and business in the same. The court shall assign them counsel.

3. All and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs. When plaintiffs shall pay no costs.

4. All statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

5. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 62.—AN ACT to reduce into one, the several acts for regulating pilots, and ascertaining their fees.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish, and Edward Rudd, or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot. Examiners appointed.

2. Each examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him.

3. Every person applying to be examined, shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of five dollars. Persons applying for examination to produce certain certificates to the examiners. And if upon examination, such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot. Fee for examination. Branches to be given to those who are qualified.





Pilots to be arranged into three classes.

4. All pilots within this commonwealth shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted, the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall on or before the first day of May next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same.

To take charge of vessels according to their classes.

5. Those pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burden or description. Those belonging to the second class, shall be confined to the charge and pilotage of such vessels, whose draught of water does not exceed twelve feet. And those belonging to the third class, shall be confined to the charge and pilotage of vessels, whose draught of water shall not exceed nine feet.

Removal out of the state a disqualification.

6. Every person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence as is imposed by this act on such as violate the terms of their branch and respective class, to be recovered in like manner.

Examiners may give to apprentices copies of their master's branches.

7. When any branch pilot shall have an apprentice that in the opinion of the examiners shall be qualified to take charge and pilot a vessel, it shall and may be lawful for the examiners to give to such apprentice or apprentices, a copy of his master's branch, and endorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge.

How pilots may be suspended and removed.

8. In case of the misconduct or misbehaviour in any pilot in the exercise of his business, it shall be lawful for the examiners to suspend him; and if upon examination before the next succeeding county or corporation court, the court shall be of opinion that such misconduct or misbehaviour is sufficiently proved, they shall cause the same to be certified to the examiners, and the person shall thenceforth be altogether disqualified, and cease to act as a pilot.

Names of the boat and port to be painted on the foresail.

9. Every pilot-boat, the owner whereof hath or shall obtain a branch in this commonwealth, shall have ten feet below the head of his foresail, and on each side thereof the name of such boat and the port to which she belongs, painted in letters of not less than nine inches in length.

Pilots must keep sufficient boats.

10. No person whatever shall be permitted to execute the business of a pilot, notwithstanding he may have such branch as aforesaid, unless he, or the company to which he belongs, shall keep one sufficient boat of eighteen feet keel at the least, under the penalty of one hundred and fifty dollars for every vessel such pilot shall undertake to conduct; to be recovered with costs in any court of record in this commonwealth, by the party suing for the same to his or her own use; and if any person not having such branch, and



keeping such boat as aforesaid, shall presume to take upon himself to conduct or pilot any vessel coming from sea, to or from any place or places hereafter mentioned, every such person shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered with costs in any court within this commonwealth, by the party suing for the same; and moreover such person shall be liable for all damages occasioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth by the party injured.

Penalty for pilot-  
ing a vessel with-  
out having a  
branch and boat.

11. *Provided*, That this act shall not be construed to extend to hinder any person or persons from assisting any vessel in distress, so as he or they shall deliver up such vessel to the pilot, who shall come on board and offer to undertake the conducting of her; for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

Proviso as to ves-  
sels in distress.

12. No more than four pilots shall be in partnership under the penalty of three hundred dollars each, to be recovered with costs by any person suing for the same.

No more than four  
pilots to be in  
partnership.

13. Every master of a merchant vessel coming from sea, shall be obliged to receive the first pilot who offers below the Horse-shoe, to conduct his vessel, or shall pay him full pilotage to the first port, and shall continue the same pilot to his port of discharge; and every pilot cruising or standing out to sea, shall offer his services first to the vessel nearest land, or in most distress; and if any pilot not being hindered by sickness, or any other lawful cause, shall refuse to go on board any vessel when required by the master, to execute his office, such pilot or pilots in either case, shall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured sixty dollars, and be liable to be suspended by them for such time as they shall think fit. Every vessel having no pilot on board, and following another that has a pilot, shall pay such pilot half fees.

Rules for masters  
of vessels and  
pilots.

14. If any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction, be incapable of acting as a pilot in this state, and shall be also liable to pay all such damages as any person or persons shall sustain by such negligence or carelessness, to be recovered in manner before directed.

Pilots losing ves-  
sels, incapacitated,  
and liable to  
damages.

15. The following and no greater prices shall be taken or demanded for pilotage; that is to say: On James river, for all vessels coming from sea, from cape Henry, or Lynhaven bay, to Hampton road, six dollars and sixty-seven cents; and for going out to sea, five dollars; and for each foot depth of water they draw, from Hampton road, or Sewell's point to Norfolk or Portsmouth, fifty cents per foot; to Sleepy hole, or Look-out, sixty-one cents per foot; to Pagan creek, fifty cents per foot; to James town, one dollar and twenty-one cents per foot; to Martin's Brandon, one dollar and thirty-three cents per foot; to Flour-de-hundred, one dollar and forty-two cents per foot; to City point or Bermuda hundred, one dollar and eighty-three cents per foot; to Four Mile creek, two dollars and twenty-one cents per foot; to Osborne's, two dollars and fifty cents per foot; to Warwick, two dollars and eighty-one cents per foot; and to Richmond, three dollars per foot. On York river, coming from sea, from the capes, or Lynhaven bay, to York town, ten dollars; and for going to sea, six dollars and sixty-seven cents;

Rates of pilotage.





from Back river or Egg island, to York town, five dollars; from York town to West point, eighty-one cents per foot; to Cumberland, one dollar per foot; to the highest landings on Pamunkey river, one dollar and twenty-five cents per foot; to Shepherd's, ninety-two cents per foot; to Meredith's, Moore's, or the highest lands on Mattapony, one dollar and nineteen cents per foot. From cape Henry to any river on Mockjack bay, ten dollars; from the cape to Urbanna, thirteen dollars and thirty-three cents; and for going from Urbanna to sea, ten dollars; from Urbanna to Tappahannock, eighty-three cents per foot; to Naylor's hole, eighty-one cents per foot; to Leed's or Micou's, one dollar and twenty-nine cents per foot; to Port Royal, one dollar and eighty-three cents per foot; to Fredericksburg, two dollars and twenty-nine cents per foot; from cape Henry to Pianketank, thirteen dollars and thirty-three cents; from cape Henry to Smith's point, on South Patowmac, coming from sea, twenty dollars; and for going out, sixteen dollars and sixty-seven cents; from Smith's point to Coan or Yeocomico, fifty cents per foot; to Machadock, fifty-eight cents per foot; to upper Machadock, eighty-one cents per foot; to Nangomy, one dollar per foot; to Boyd's hole, one dollar and eight cents per foot; to Quantico, one dollar and twenty-one cents per foot; to Occoquan, one dollar and twenty-nine cents per foot; to Piscattaway, one dollar and fifty-eight cents per foot; to Alexandria, one dollar and eighty-nine cents per foot; to Eastern branch, two dollars per foot; and the same fees by the foot back again, and from the places aforesaid to the capes. And where any master of a vessel shall give reasonable notice to the pilot he shall employ of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of one dollar and sixty-seven cents for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs by the informer.

Allowance where they are detained by the vessel's not being ready.

Pilots to carry with them and produce a copy of this act.

16. And to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act. And if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay sixty dollars to any person who shall sue for the same, to be recovered in any court within this state.

Officers of the customs not to permit a vessel to clear out till the pilotage is paid.

17. And where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector or other officer of the customs, where the master of such vessel clears out; and the said collector, or other officer of the customs, is hereby authorized to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and an half per centum for receiving money and paying the same to the pilot.

Examiners to be furnished with copies of this act.

18. The public printer shall furnish the examiners, on demand, with one hundred copies of this act; one of which copies, signed by three of the said examiners, shall be delivered to each pilot.



19. All and every act and acts, clause and clauses of acts, com- Repealing clause.  
ing within the purview of this act, shall be, and the same are hereby  
repealed.

20. This act shall commence and be in force from and after the Commencement.  
passing thereof.

CHAP. 63.—An ACT reducing into one the several acts for regulating the in-  
spection of pork, beef, tar, pitch and turpentine.

(Passed December 26, 1792.)

1. Whereas experience has shewn, that the establishment of pro- Preamble.  
per regulations for the inspection of pork, beef, tar, pitch and tur-  
pentine, have contributed to the sale and export of those articles:

2. *Be it therefore enacted by the general assembly*, That no pork  
or beef shall be exported out of this commonwealth, or tar, pitch  
or turpentine exposed to sale or exported, until the same shall be  
packed or filled in barrels, under the regulations herein after ex-  
pressed; and the justices of every county court within this com-  
monwealth, are hereby authorized and required, whenever applica-  
tion shall be made to any court for that purpose, and in the months

Inspectors how  
appointed and  
qualified.

of August and September, annually, to nominate and appoint in  
open court, one or more (not exceeding six in one county) fit and  
able person or persons, residing in the same county, to inspect the  
package, and weigh all pork and beef, and also to inspect the filling  
of all tar, pitch and turpentine, packed or filled for sale or exporta-  
tion in their respective counties; and the said courts may appoint  
the said person or persons to be inspectors of pork, beef, tar, pitch  
and turpentine, if such person appears to them to be duly qualified,  
or may appoint several inspectors, as in their discretion shall seem

Their duty.

best; and every person so appointed, shall, before he enters upon  
the execution of that office, make oath before the justices of his  
county court, carefully to view, inspect and examine, when re-  
quired, all pork, beef, tar pitch and turpentine, packed or filled for  
sale or exportation, and to the best of his skill and judgment, not  
to pass or stamp any barrel of pork or beef, or any tar, pitch, or  
turpentine, that is not good, clean, sound, merchantable, and of the  
weight or gauge by this act directed; and faithfully to discharge  
the duty of his office, without favor, affection or partiality; and  
shall constantly attend, upon notice, at such time and place as the  
owner of any of the said commodities shall appoint, to inspect the  
same within his county, but shall not inspect or stamp any pork,  
beef, tar, pitch or turpentine, imported from Carolina, until the  
same shall be brought to some public landing; and shall provide a  
stamp or stamps, with the first letter of his county, the letter V, for  
Virginia, the first letter of his own christian name, and his whole  
surname at length, to be stamped on each barrel or cask by him  
passed; and on every barrel of pork, the letter L, for large, or the  
letter S, for small pork; and on the head of every barrel of tar,  
pitch or turpentine, shall distinguish whether the same be tar, pitch  
or turpentine; for which he may demand and take, for every bar-  
rel of pork or beef by him stamped, six cents; for every barrel of  
tar pitch or turpentine, four cents, and no more; to be paid down  
by the owner. And if any officer so appointed and sworn, shall  
neglect his duty, or stamp any of the commodities aforesaid, con-  
trary to this act, he shall forfeit and pay four dollars for every bar-  
rel of pork or beef, and one dollar for every barrel of tar, pitch or

Their fees.





turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires; and also one dollar for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed.

Contents and  
quality of barrels  
of pork and beef.

3. Every barrel of pork or beef, packed within this commonwealth, for sale or exportation, or imported here, shall contain at least two hundred and four pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef, that does not appear to such inspector, to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner. And every barrel of tar, pitch and turpentine, shall contain thirty-one gallons and a half, at the least; and after the same shall be inspected, gauged, found clean, and well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

Of tar, pitch and  
turpentine.

Penalties for ex-  
posing to sale bar-  
rels of less weight  
or gauge.

4. All beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from Carolina, or any other place, shall contain at least two hundred and four pounds nett meat, allowing only two and a half per centum for shrinkage or loss of weight. And every barrel of tar, pitch or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch or turpentine, of less weight or gauge, he or she shall forfeit and pay to the informer four dollars for every such barrel of pork or beef, and one dollar for every such barrel of tar, pitch or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace, upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

How recoverable.

Judgments for,  
may be appealed  
from.

5. *Provided nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.





6. Every seller or exporter of beef, pork, tar, pitch or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover, shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

7. Every cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch or turpentine, shall make the same in the following manner, to wit: barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two thirds of their length. Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

8. The several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

9. All acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested or incurred, prior to the commencement of this act.

10. This act shall commence and be in force from and after the passing thereof.

CHAP. 64.—An ACT reducing into one, the several acts to oblige vessels, coming from foreign parts, to perform quarantine.

(Passed December 26, 1792.)

1. Whereas it is necessary to compel vessels arriving in this country from foreign parts of the world, to perform quarantine in certain cases:

2. *Be it enacted by the general assembly*, That vessels, persons, and merchandize, coming or brought into any place within this commonwealth, from any other part of the world, whence the governor, with advice of his council, shall judge it probable that any plague or other infectious disease may be brought, shall be obliged to make their quarantine in such place, during such time, and in

Oath of seller or exporter of pork, beef, tar, pitch or turpentine.

Cooper's duty in setting up barrels for pork, beef, tar, pitch and turpentine.

Fines, &c. how recoverable.

Repealing clause. Proviso.

How rules for performing quarantine shall be made and observed



such manner as shall be directed by the governor, by his order in council, notified by proclamation, to be published in the Virginia gazette: and until they shall be discharged from the quarantine, no such persons or merchandize shall come or be brought on shore, or go or be put on board of any other vessel in the commonwealth, but in such manner, in such cases, and by such license, as shall be permitted by the order; and the vessels and persons receiving goods out of her, shall be subject to the orders concerning quarantine, and for preventing infection, which shall be made by the governor and council, and notified as aforesaid.

Duty of masters of vessels having on board persons infected with pestilential diseases.

3. The master of a vessel coming from sea, on board of which there shall be a person infected with the plague or other pestilential disease, shall immediately make the case known to such person as shall be appointed for the purpose, in the manner as is herein after directed, who shall give intelligence thereof with all speed to the governor, that measures may be taken for support of the crew, and precautions used to prevent the spreading of the infection; and the master shall not enter into any port, but shall remain in some open road, and shall avoid and hinder all intercourse with other vessels or persons, nor shall any of the passengers or crew go on shore, until the order of the governor and council shall be received by the master. Whosoever shall offend against this act, in either or any of the aforementioned instances, shall be amerced the sum of fifteen hundred dollars.

Enquiries to be made when vessels come from infected places.

4. When a place shall be infected with the plague or other pestilential disease, or when the governor, with the advice of council, shall have notified by proclamation published in the Virginia gazette, that it is judged probable the plague or other pestilential disease may be brought from any place, if a vessel from such place shall be coming into a port of the commonwealth, the person who shall be authorized to see quarantine performed, shall go off, or cause some other to go off to the vessel, and at a convenient distance require the commander, to declare what is his name, at what place the cargo was taken on board, at what places the vessel touched in her passage, whether any of those places were infected with the plague or any other pestilential disease, how long the vessel had been in her passage, how many persons were on board when she set sail, whether any on board during the voyage had been infected with the plague or other pestilential disease, and who they are, how many died in the voyage, and of what distemper, what vessels he, or any of his company with his privity, went on board of, and whether any of their company had been on board of his vessel, in their voyage, and to what places those vessels belonged, and what are the contents of his lading.

Penalty on the masters for concealing it.

5. The master of a vessel coming from a place infected with the plague or other pestilential disease, or having any person on board so infected, who shall conceal it, or who shall not give true answers to the questions so to be propounded to him, shall be amerced the sum of fifteen hundred dollars.

Duty of the master of a vessel performing quarantine.

6. The master of a vessel ordered to perform quarantine, when he shall be required, after his arrival at the place appointed, shall deliver to the officer authorized to see it performed there, the bills of health and manifests he shall have received during the voyage, with his log book and journal; and refusing or neglecting so to do, or to repair in convenient time after notice to the place ap-

Penalty for breach.





pointed, or escaping from thence before quarantine performed, shall be amerced the sum of fifteen hundred dollars.

7. Persons ordered to perform quarantine, if they shall escape, may be compelled to return, or if they shall attempt to escape, may be detained by the persons who shall be authorized to see the quarantine performed, and who may employ force, and call for the assistance of others, if it be necessary for this purpose. Persons escaping, to be compelled to return to the vessel.

8. Any person going on board a vessel or into a place under quarantine, without license from the superintendent thereof, may be compelled to remain there, in the same manner as he might have been if he had been one of the crew of the vessel. The person thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, shall be amerced the sum of three thousand dollars. And any person embezzling, or wilfully damaging goods performing quarantine under his direction, shall be liable to the party injured for treble the value of damages sustained thereby. The vessel, persons and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the superintendent, shall be no further restrained by virtue of this act. Various penalties.

9. A person authorized to see quarantine performed, or a watchman upon any vessel, place, or goods, under quarantine, deserting his duty, or willingly permitting a person, vessel or goods to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful license, or a person empowered to give a certificate of the performance of quarantine, knowingly giving a false certificate, shall be amerced the sum of three hundred dollars.

10. The forfeitures inflicted by this act, shall be, one moiety to the use of the commonwealth, the other moiety to any person who shall sue for the same; and shall be recovered by action of debt, in which action the defendant shall be ruled to give special bail. Forfeitures, how recoverable and appropriated.

11. The governor, with the advice of council, shall be, and he is hereby authorized to appoint, and from time to time to fill up such vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the congress of the United States, as ports of entry and delivery, some suitable person to discharge the duties above designated, and to make such compensation as in their judgment may be sufficient to each of the said persons, for any services they may occasionally perform in the same. Appointments of persons to see quarantine performed, how to be made.

12. The governor in council, shall direct the auditor to issue his warrant on the treasurer for such sums of money as may be necessary for the support of the persons performing quarantine, and those appointed to see it performed, who is directed to pay the same out of the public money in his hands, appropriated to defray the contingent charges of government, and shall be repaid by the master or owner of the vessel, after quarantine performed. Expenses of performing quarantine, how to be defrayed.

13. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

14. This act shall commence in force from and after the passing thereof. Commencement.



## CHAP. 65.—An ACT declaring the punishment in case of rape.

(Passed December 26, 1792.)

Punishment in  
case of rape.

1. *Be it enacted by the general assembly*, That if any man, from and after the commencement of this act, do ravish a woman married, maid, or other, where she did not consent before nor after; or shall ravish a woman married, maid, or other, with force, although she consent after, the person so offending, shall be adjudged a felon, and shall suffer death as in case of felony, without the benefit of clergy.

For carnally  
knowing a woman  
child under the  
age of ten years.

2. If any person shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such unlawful and carnal knowledge shall be felony, and the offender being duly convicted thereof, shall suffer as a felon, without benefit of clergy.

Repealing clause.  
Proviso.

3. All and every statute and statutes, within the purview of this act, shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal any such statute or statutes, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

## CHAP. 66.—An ACT reducing into one, the several acts for apprehending and securing runaways.

(Passed December 26, 1792.)

Method of taking  
up runaways and  
conveying them to  
prison, or to their  
owners.

1. *Be it enacted by the general assembly*, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorized to receive him, or to the jailor of the county or corporation in which he was apprehended, and shall be entitled to one dollar and sixty-seven cents, and ten cents for every mile of such distance as he shall necessarily convey him, to be paid by the owner; and if such runaway be committed to the jail of any county or corporation, the keeper thereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse of his county or corporation: *Provided*, That if the owner or overseer of such runaway shall be an inhabitant of the county where such runaway is taken up, the taker-up shall, in that case, convey and deliver him or her to the owner or overseer as aforesaid, and shall not be at liberty to carry such runaway to the jail of the county or corporation as is before directed.

Reward for appre-  
hending them.Jailors to adver-  
tise descriptions  
of them.Not to be con-  
veyed to prison  
if the owner lives  
in the county.How to be em-  
ployed when the  
owners do not  
claim them.

2. If the owner claim not within two months thereafter, the sheriff or serjeant shall publish a like advertisement for three months in the Virginia gazette, and shall hire the runaway out during such time, and for such wages as his county or corporation court shall approve, having put an iron collar, stamped with the letter P, round his neck, and out of his wages pay the reward for apprehending, and the expenses incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the





wages received, if any, to him who shall claim, and who having proved before the court of some county or corporation, or a justice of the peace of the county or corporation, in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff or serjeant, shall produce the clerk's or the justice's certificate of such proof made, and security given, proved by his own or another's oath, the runaway when shewn to him, to be the same that was so lost, and pay so much as the expenses aforesaid shall exceed the wages.

Owners to prove their property.

3. The runaway being a slave, after the end of one year from the last advertisement, shall be sold, and the proceeds of the sale, with the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth.

Runaways to be sold if not claimed within a certain time.

4. If the runaway die in jail, the expenses shall be defrayed by the public.

5. The runaway, if he shall have crossed the bay of Chesapeake, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff twenty dollars, and to the constable ten cents for every mile he shall necessarily travel in performing this duty.

Where they have crossed the bay.

6. Upon any owner's neglecting or refusing to pay the above reward, the taker-up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed five dollars, or where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth.

How rewards for apprehending them may be recovered.

7. The keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the same for release; and for every twenty-four hours keeping him or her in jail, seventeen cents, and no more; and if he, or any sheriff, serjeant, or jailor, shall demand or take any other or greater fee than is, or shall be allowed by law for runaways, he or they so offending, shall for every such offence, forfeit and pay four dollars to the party grieved, and shall also refund and pay back all money received over and above the legal fees; recoverable with costs, before any justice of the peace of the county or corporation where such offence shall be committed.

Jailor's fees for committing, maintaining, and releasing them.

8. All and every act and acts, or parts of acts, within the purview of this act, shall be, and are hereby repealed: *Provided*, That all rights and remedies, given by any such act or acts, and all such parts of acts, shall be, and remain as if this act had not been made.

Repealing clause. Proviso.

9. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 67.—An ACT reducing into one, the several acts concerning servants.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That all white persons not being citizens of any of the confederated states of America, who shall come into this commonwealth under contract, to serve another in any trade or occupation, shall be compellable to perform such contract, specifically during the term thereof, or during so

What servants shall specifically perform their contracts.





much of the same as shall not exceed seven years. Infants under the age of fourteen years brought in under the like contract, entered into with the consent of their father or guardian, shall serve till their age of twenty-one years only, or for such shorter term as the said contract shall have fixed.

Master's duty to servants.

2. The said servants shall be provided by their master with wholesome and sufficient food, clothing and lodging; and at the end of their service, if they shall not have contracted for any reward, other than transportation, food, clothing, and lodging, shall receive from him, one new and complete suit of clothing, suited to the season of the year; to wit, a coat, waistcoat, pair of breeches and shoes, two pair of stockings, two shirts, a hat and blanket.

Contracts for service, how assignable.

3. The benefit of the said contract of service, shall be assignable by the master to any person to whom the servant shall in the presence of a justice of the peace, freely consent that it shall be assigned, the said justice attesting such free consent in writing, and shall also pass to the executors, administrators, and legatees of the master.

How lazy and disorderly servants may be punished.

4. Any such servant, being lazy, disorderly, guilty of misbehaviour to his master, or in his master's family, shall be corrected by stripes, on order from a justice of the county, city, or corporation, wherein he resides; or refusing to work, shall be compelled thereto in like manner, and moreover shall serve two days for every one he shall have so refused to serve, or shall otherwise have lost, without sufficient justification. All necessary expenses incurred by any master for apprehending and bringing home any absconding servant, shall be repaid by further service, after such rates as the court of the county, city, or corporation, shall direct; unless such servant shall give security, to be approved of by the court, for repayment in money, within six months after he shall be free from service, and shall accordingly pay the same.

Shall compensate by further service, for time lost, and for expenses of bringing them home when absconding.

County courts to hear servants' complaints.

5. If any master shall fail in the duties prescribed by this act, or shall be guilty of injurious demeanor towards his servant, it shall be redressed on motion, by the court of the county, city, or corporation, wherein the servant resides, by immediate discharge from service, if the injury were gross, or by a specific order for a change in his demeanor, and a discharge from service, if such order be disobeyed.

Contracts between masters and servants, during service, void.

6. All contracts between master and servant during the time of service, shall be void.

Proceedings on complaints of servants against masters, and of masters against servants.

7. The court of every county, city, or borough, shall at all times receive the complaints of servants, being citizens of any one of the confederated states of America, who reside within the jurisdiction of such court, against their masters or mistresses, alledging underserved, or immoderate correction, insufficient allowance of food, raiment, or lodging; and may hear and determine such cases in a summary way, making such orders thereupon, as in their judgment will relieve the party injured in future; and may also in the same manner hear and determine complaints of masters or mistresses against their servants, for desertion, without good cause; and may oblige the latter, for loss thereby occasioned, to make retribution, by further services, after expiration of the times for which they had been bound.

Servants shall have the property of their effects.

8. If any servant shall, at any time, bring in goods or money, or during the time of their service, shall, by gift or any other lawful



means, acquire goods or money, they shall have the property and benefit thereof to their own use. And if any servant shall be sick or lame, and so become useless or chargeable, his or her master or owner shall maintain such servant until his or her whole time of service shall be expired. And if any master or owner shall put away a lame or sick servant, under pretence of freedom, and such servant becomes chargeable to the county, such master or owner shall forfeit and pay thirty dollars to the overseers of the poor of the district, wherein such offence shall be committed, to the use of the poor of the district; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth; and moreover shall be liable to the action of the said overseers of the poor at the common law, for damages.

Sick or lame servants may not be discharged.

9. No negro, mulatto, or Indian, shall at any time purchase any servant, other than of their own complexion; and if any of the persons aforesaid, shall, nevertheless, presume to purchase a white servant, such servant shall immediately become free, and be so held, deemed, and taken.

Who may not have white servants.

10. No person whatsoever shall buy, sell, or receive of, to, or from any servant, any coin or commodity whatsoever, without the leave or consent of the master or owner of such servant; and if any person shall presume to deal with any servant, without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such servant, four times the value of the thing so bought, sold, or received; to be recovered with costs, by action upon the case, in any county or corporation court of this commonwealth; and shall also forfeit and pay the further sum of twenty dollars, to any person who will sue for the same; to be recovered with costs, by summons and petition, or receive on his or her bare back, thirty-nine lashes, well laid on, at the public whipping post, but shall nevertheless be liable to pay the costs of such petition and summons.

Penalty for dealing with servants without leave.

11. In all cases of penal laws, where free persons are punishable by fine, servants shall be punished by whipping, after the rate of twenty lashes for every eight dollars, so that no servant shall receive more than forty lashes at any one time, unless such offender can procure some person to pay the fine.

Punishment of servants for breach of penal laws.

12. Every servant upon expiration of his or her time, and proof thereof made before the court of the county where he or she last served, shall have his or her freedom recorded, and a certificate thereof under the hand of the clerk, which shall be sufficient to indemnify any person for entertaining or hiring such servant; and if such certificate shall happen to be torn or lost, the clerk, upon request, shall issue another, reciting therein the loss of the former. And if any person shall harbour or entertain a servant, not having and producing such certificate, he or she shall pay to the master or owner of such servant, one dollar for every natural day he or she shall so harbour or entertain such runaway; recoverable with costs, by action of debt, in any county or corporation court of this commonwealth. And if any runaway shall make use of a forged certificate, or after delivery of a true certificate to the person hiring him or her, shall steal the same, and thereby procure other entertainment, the person entertaining or hiring, shall not be liable to the said penalty, but such runaway, besides making reparation for loss of time and charges of recovery, shall stand two hours in the

Servants when free shall have certificates thereof.

Penalty for harbouring servants without such certificate.

Punishment of servants using forged or stolen certificates;





And of the persons  
forging.

pillory, on a court day, for making use of such forged or stolen certificate; and the person forging the same, shall forfeit and pay thirty dollars; one moiety to the commonwealth, and the other moiety to the owner of such runaway, or the informer, recoverable with costs, in any county or corporation court of this commonwealth; and on failure of present payment or security for the same within six months, such offender shall receive thirty-nine lashes on his or her bare back, well laid on, at the common whipping post. And where a runaway shall happen to be hired upon a forged certificate, and afterwards denies the delivery thereof, the *onus probandi* shall lie upon the party hiring such runaway.

Repealing clause.

Proviso.

13. All acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement.

14. This act shall commence in force from and after the passing thereof.

CHAP. 68.—An ACT reducing into one, the several acts for punishing persons guilty of certain thefts and forgeries.

(Passed December 19, 1792.)

Felony without  
benefit of clergy to  
counterfeit current  
coin, or to make or  
pass base coin.

1. *Be it enacted by the general assembly*, That if any person shall counterfeit, aid, or abet in counterfeiting any coin made current in this commonwealth, or shall make, or assist, aid, or abet in making base coin, or shall pass any such counterfeit or base coin in payment, knowing the same to be counterfeit or base, every such person shall on legal conviction, suffer death without benefit of clergy.

To forge any deed,  
will, bond, note,  
receipt, &c.

2. If any person shall falsely make, forge or counterfeit, or cause, or procure to be falsely made, forged or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, or any acquittance or receipt, either for money or goods, with intention to defraud any person whatsoever, or shall utter or publish as true, any false, forged, or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money, endorsement or assignment of any bill of exchange, or promissory note for the payment of money, acquittance or receipt, either for money or goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited, then every such person, being thereof lawfully convicted, shall be deemed guilty of felony, and suffer death as a felon, without benefit of clergy.

To forge any cer-  
tificate or warrant  
issued under au-  
thority of the Uni-  
ted States, or of  
this state.

3. If any person within this commonwealth, shall forge or counterfeit, alter or erase, any certificate or warrant, issued or to be issued by any person or persons authorized for that purpose, either by the congress of the United States, or the legislature of this state, for the payment of money, or shall be aiding or assisting therein, or shall demand payment thereof, knowing the same to be forged, counterfeited, altered, or erased, or shall transfer any such certificate or warrant, knowing the same to be forged or counterfeited, altered, or erased; or shall forge or counterfeit, alter or erase, any certificate whatever, for the purpose of obtaining a settlement of money from any person or persons authorized for that purpose,



either by the congress of the United States, or the legislature of this state, or shall be aiding or assisting therein, or shall require settlement thereon, or transfer the same, knowing it to be forged, counterfeited, altered or erased, he or she so offending, and thereof legally convicted, shall suffer death without benefit of clergy.

4. If any person whatsoever shall forge or counterfeit, alter or erase the stamp or receipt of any inspector of flour or hemp, or tender in payment any such forged or counterfeited, altered or erased receipt, knowing it to be such, and shall thereof be convicted, he or they shall be adjudged a felon, and suffer death as in the case of felony, without benefit of clergy.

5. He or she shall be adjudged a felon, and not have the benefit of clergy, who shall forge or counterfeit, alter or erase the stamp or receipt of any inspector or inspectors of tobacco, or shall cause or procure such stamp or receipt to be forged or counterfeited, altered or erased, or shall aid or assist in forging or counterfeiting, altering or erasing such stamp or receipt, or shall pass or tender, or shall cause or procure to be passed or tendered, any such stamp or receipt in payment or exchange, knowing the same to have been forged or counterfeited, altered or erased, or shall have in his or her custody or possession, any inspector's stamp or receipt, which hath been altered or erased, knowing the same to have been altered or erased, and shall not discover such altered or erased stamp or receipt to two justices of the peace, within five days after they or either of them shall have come to his or her possession, or shall export, or cause to be exported, any hogshead or cask of tobacco, stamped with a forged or counterfeited stamp, or shall receive or demand tobacco of an inspector upon any forged or counterfeited, altered or erased stamp or receipt, knowing such stamp or receipt to be forged or counterfeited, altered or erased.

6. He or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by other means take from the possession or custody of another, any warrant from the register of the land office of this commonwealth, to authorize a survey of waste and unappropriated lands; or who shall alter, erase, or aid, or assist in the alteration or erasure of any such warrant; or forge, or counterfeit, or aid, abet or assist, in forging or counterfeiting any written or printed paper purporting to be such warrant; or who shall transfer to the use of another, or for his or her own use, present or cause to be presented to the register for the exchange thereof, or to a surveyor for the execution thereof, any such warrant or paper purporting to be such warrant, knowing the same to be transferred or presented, for the exchange or the execution thereof, to be stolen, or by other means taken from the possession or custody of another, or altered or erased, or forged or counterfeited: And he or she shall be adjudged a felon, and not have the benefit of clergy, who shall falsely make or counterfeit, or aid, abet, or assist in safely keeping or counterfeiting any instrument, stamping an impression in the figure and likeness of the seal officially used by the register of the land office, or who shall have in his or her possession or custody, such instrument, and shall wilfully conceal the same, knowing it to be falsely made or counterfeited.

7. He or she shall be adjudged a felon, and not have the benefit of clergy, who shall steal, or by robbery take from the possession or custody of another, any loan office certificate of the United





States, or any of them, or any warrant of the governor or auditor, for payment of money.

States, or any of them, or any warrant of the governor, or other person exercising that function, or any certificate of the auditor for public accounts to the treasurer, authorizing the payment of money, or shall present, or cause to be presented, such loan office certificate at a loan office of the United States, or any of them, for the discharge of the whole or any part thereof, or such warrant or auditor's certificate at the public treasury for the payment thereof, knowing such loan office certificate or warrant, or auditor's certificate, to have been stolen, or by robbery to have been taken from the possession or custody of another.

Repealing clause.

8. All and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided) shall be, and are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal the said statutes or acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Proviso.

Commencement.

9. This act shall commence and be in force from and after the passing thereof.

CHAP. 69.—An ACT concerning tithables: directing the mode of laying and collecting the county levy.

(Passed December 27, 1792.)

Who shall be deemed tithables.

1. *Be it enacted by the general assembly*, That all male persons of the age of sixteen years and upwards, and all female slaves of the age of sixteen years and upwards, shall be, and they are hereby declared to be tithable, and chargeable for defraying the county levies and poor rates, except such only as the county courts may, by reason of age, infirmity, or other charitable reasons, exempt from the payment of public taxes.

Persons exempted.

2. *Provided*, That nothing herein contained, shall be construed to extend to the governor for the time being, or to his domestic servants, or to the president, masters, scholars, or domestic servants of the college of William and Mary, or to the person of any ordained minister, or to the person of any constable so long as he continues in office, so as to charge them or either of them as tithables, within the meaning of this act.

Lists of tithables to be taken by commissioners of the taxes.

3. The commissioners of the tax within the several counties of this commonwealth, shall, and they are hereby required and empowered, at the same period in each year in which they are collecting lists of the taxable property in their respective districts, under the act, intituled, "*An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue*," to demand from each person, being tithable, or having in his or her possession such as are tithable, a written list of such as are tithable persons in his or her family; which lists the said commissioners, respectively, shall arrange in an alphabetical table, and on or before the last day of May, annually, together with the vouchers taken by them as aforesaid, return to the clerks of the courts.

Clerks to set up copies thereof in the courthouses.

4. The clerks of the several county courts, shall at their next court, after the table containing the list of tithables as aforesaid shall be returned to them, set up in the courthouse of their county, fair copies of such tables.





5. The master or owner of a family, or in his or her absence or nonresidence at the plantation, his or her agent, attorney, or overseer, shall at the time appointed by this act, in a list under his or her hand, deliver or cause to be delivered, to the commissioner of the tax for that district, the names and numbers of all tithables abiding in, or belonging to his or her family, the ninth day of March preceding the time of delivering in such list; or the master or owner thereof, or in case of his or her absence or nonresidence, the overseer shall be adjudged a concealer of such and so many tithables as shall not be listed or given in; and for every tithable person so concealed, shall forfeit and pay ten dollars; one moiety for the use of the county, towards lessening the levy thereof, and the other moiety to the use of the informer; to be recovered by action of debt or information, in any court of record. And when any overseer shall fail to list the tithables on any plantation whereon he is overseer, the master or owner shall be subject to the payment of their levies, in the same manner as he would have been, if they had been listed. And if any commissioner of the tax shall not truly list and enter the names and numbers of his own tithables in that district or county for which he is to return a list, he shall be adjudged a concealer, and for every tithable person so by him concealed, and not listed, shall forfeit and pay twenty dollars, to be applied and recovered as aforesaid.

Masters of families, their agents or overseers, to give in lists of their tithables.

Penalty for neglect.

6. *Provided always*, That if any owner or overseer shall happen by sickness or otherwise to omit delivering his or her list to the commissioner of the tax at the time the same may be required, it shall be lawful for such person to send his or her list to the house of such commissioner at any time, before he makes his return to the clerk of the county as aforesaid, which shall discharge him or her from the penalty aforesaid.

Proviso.

7. The justices of the several counties within this commonwealth, shall, and they are hereby authorized and empowered, at their courts respectively, to be held in the month of June or July, annually, or as soon after as may be if no court should be held in either of those months, to proceed to make up in their minutes, an account of all expenses incurred by the said court under authority of any law, chargeable on the county and remaining unpaid, stating therein the sums due, for what, and to whom due, and all credits owing to the said county. When the balance due from the county is thus ascertained, by deducting the sums due to the county, from those owing by the county, the said justices shall proceed to levy and assess on the tithable persons in their respective counties, the amount of that balance in equal proportions. The sums due to the county, and the sum to be assessed on the tithables being added together, shall then be appropriated by the court, so as to shew the right of each county creditor, and the amount of his demand.

County levy, when and how to be assessed.

8. The clerks of the county courts respectively, shall within ten days after the levy has been apportioned by the court as aforesaid, deliver to the sheriff or collector, a list of the persons as aforesaid chargeable with the payment of levies, and the sum to be paid by each for his county rate, and also a list of the sums due to the said county, and of the persons from whom due; as also of the persons to whom the same ought to be paid, with the amount of their respective demands; the said sheriff or collector shall immediately proceed to collect from the persons chargeable therewith, the sums

List thereof to be delivered to the collector.

His duty, powers, and commission.



due to the said county, and the county rate settled as aforesaid, with the same powers and for the same commission, as in the case of public taxes; and shall pay the same to the county creditors according to their respective demands.

Remedy against him for failing to account for and pay the money received.

9. If any sheriff or county collector shall fail to account with and satisfy the county creditors as aforesaid, the respective sums levied for them or either of them within six months after the levy shall be laid, or shall fail to adjust and settle the account of his collection with the county within the said six months, it shall and may be lawful for any county creditor who may be injured by such delinquency, to obtain judgment against such sheriff or collector, his or their heirs, executors, administrators or securities, in the court of that county where the delinquency happened, upon giving ten days previous notice to such delinquent sheriff or collector, his or their heirs, executors, administrators or securities. And it shall and may be lawful, where such sheriff or collector fails to account with the county as aforesaid, for the court of that county before whom he ought to account, to enter judgment against such delinquent sheriff or collector, for whatever shall appear to be due from such sheriff or collector, and award execution thereon, giving such sheriff ten days previous notice of such proceeding.

County courts to appoint the sheriff, or any other collector, and take bond with security of him.

10. The court of each county shall, and they are hereby authorized and empowered, at the time of settling their county levy as aforesaid, to appoint the sheriff of their county, or any other person, collector of their county levies, taking from the person so appointed a bond, in the penalty at least of double the sum to be collected, payable to the justices of the county so appointing him, with two or more responsible sureties, conditioned for the faithful collection, accounting for, and paying the several sums wherewith he shall be chargeable as sheriff or collector of the county, in the manner directed by law.

Penalty on a commissioner of the tax for not taking the list of tithables.

11. Each commissioner of the tax failing to take or return the list of tithables as directed by this act, shall forfeit and pay forty dollars; one moiety for the use of the county towards lessening the county levies, and the other moiety to the informer; to be recovered by action of debt or information in any court of record.

On the clerk for failing to publish the list.

12. If any clerk of the county courts shall fail to publish in their courthouses the list of tithables, as herein before is directed, or shall fail to deliver to the collector of the county levies, the lists hereby required to be delivered to him, at the time and in the manner required by this act, such clerk so omitting, shall for each offence, forfeit and pay the sum of thirty dollars; to be applied and recovered as aforesaid.

Collectors may appoint deputies.

13. Each collector of the county levies appointed as aforesaid by the court, may appoint one or more deputies to assist him in his collections, for whose conduct he shall be answerable, which deputies shall have the same power as the collector himself; and such collector shall have the same remedy and mode of recovery against his deputies or either of them, and their securities respectively, for any sums of money, which by virtue of this act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies, as the collector himself is subject to by law.

Repealing clause. Proviso.

14. All acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies,





finer, penalties or amercements which have accrued, been vested or incurred, prior to the commencement of this act.

15. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 70.—An ACT declaring what shall be treason; for punishing certain offences injurious to the tranquillity of the commonwealth; and concerning felonies and offences committed out of the jurisdiction of the same.

(Passed December 26, 1792.)

1. Whereas divers opinions may be what case shall be adjudged Preamble.  
treason, and what not: *Be it enacted by the general assembly,* That What shall be deemed treason.  
if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of Proof.  
two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall Punishment.  
suffer death without benefit of clergy.

2. Also every person or persons who shall erect or establish, or Other cases which shall be deemed treason.  
cause or procure to be erected or established, any government separate from, or independent of the government of Virginia within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government hold or execute any office, legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force.

3. Every person who shall attempt to establish such government Attempt to establish a separate government within the limits of this state, to be deemed a high crime and misdemeanor.  
by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government without such assent as aforesaid, shall be adjudged Punishment.  
guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge.

4. If any citizen or inhabitant of this commonwealth, shall go Citizens of this commonwealth committing certain crimes in foreign nations, and fleeing to this state, may be apprehended and surrendered to such nation.  
beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which in the judgment of the United States in congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was



committed, and the United States in congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorized to cause him to be apprehended, conveyed and delivered to such person or persons, as the United States in congress assembled, shall prescribe.

Citizens of this commonwealth committing certain crimes in any country in amity with the United States, may be tried and punished as if the crime had been committed within this commonwealth.

5. If any citizen of this commonwealth shall go out of the same into the territory of any christian nation, or Indian tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which, if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace, on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be apprehended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of bystanders, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner.

Proviso as to the time of holding the examining court.

Where the proof is not sufficient to convict the offender, he may be bound to his good behaviour.

Certain offences committed by citizens against the commonwealth, or its citizens, out of the jurisdiction thereof, may be enquired into and tried in general court.

6. Where sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable.

7. All high treasons, misprisions, and concealments of high treasons and other offences against this commonwealth, (except piracies and felonies on the high seas,) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convicted of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attained and convicted of such offence done within the body of a county.

Repealing clause.

Proviso.

8. All and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as herein after provided,) shall be, and are hereby repealed: *Provided always*, That nothing in this act contained shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence





within the purview thereof, committed or done before the commencement of this act.

9. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 71.—An ACT for preventing trespasses; declaring what shall be deemed a lawful inclosure; for preventing infection of horned cattle, and losses from drivers thereof passing through the commonwealth.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same.

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures.

Where the party injured may sue for damages, or destroy the beasts.

2. And that the condition of the fence at the time the trespass committed may be proved to a jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest housekeepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and to take memorandums of the same, and their testimony in such case, shall be good evidence to the jury touching the lawfulness of the fence.

How the fence shall be viewed.

3. If any person damaged for want of such sufficient fence, shall hurt, wound, lame, kill or destroy, or cause to be hurt, wounded, lamed, killed or destroyed, by shooting, hunting with dogs, or otherwise, any of the kind or breed of horses, cattle, sheep, hogs or goats, he, she or they so offending, shall pay and satisfy to the owner of the creature so hurt, wounded, lamed, killed or destroyed, double damages, with costs, recoverable as aforesaid.

Penalty for hurting beasts in grounds not sufficiently fenced.

4. All owners of horses, mares, cattle, and other beasts, which they know to have barked fruit trees, shall keep the same within their own fenced ground; and if any person shall take up any horse, mare, kine, or other beast, known by the owner to have barked fruit trees, and shall deliver the same to such owner, he or she shall pay the taker up, two dollars for every such beast so taken up and delivered; recoverable with costs, before any justice of the peace of the county wherein such beast was taken up, or the owner lives: *Provided always*, That the taker up, shall, if required, make oath before the same justice, that he took up such horse, mare, or other beast, and that no means were used by himself or any other

Reward for taking up beasts known to have barked fruit trees.





person to his knowledge, to set the same at large, otherwise he shall lose the said reward.

Penalty for taking boats or other vessels.

5. Every person who without leave of the owner shall take away any boat or other vessel, shall, for every such offence, pay ten dollars to the owner thereof, over and above the damage such boat or other vessel shall sustain, and over and above the charge of bringing back such boat or other vessel; to be recovered with costs, in any court of record, as aforesaid. And if the person so trespassing shall be a servant, he or she shall make the like satisfaction, by his or her service, when the time due to his or her master, or owner, shall be expired. And where there shall be several offenders in one trespass, every person shall be liable for the whole penalty.

Bills of health to be produced by persons driving cattle into or through the commonwealth.

6. And be it further enacted, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the same owner, or to be used at his house, shall be deemed a nuisance, unless the driver shall produce to any freeholder of a county wherein the drove is passing, who shall require it, a bill of health, signed by some justice of the commonwealth, containing the number of the drove, with descriptions of the cattle, by their sexes, flesh marks, and ear marks or brands, and certifying them to be free from distemper; or notwithstanding he may produce such bill of health, unless he shall forthwith obtain another, at the like requisition, if any freeholder shall make affidavit before a justice, that he hath cause to suspect some of the cattle to be distempered. Such bill of health shall not be given in either case, before two disinterested freeholders appointed by warrant of a justice, shall have viewed the cattle, and reported them to be free from distemper. A freeholder refusing to obey such warrant, shall be amerced by the justice granting such warrant, in any sum not exceeding five dollars. If the cattle appear by the report to be distempered, the owner may impound them, and if he refuse to do so, or if he suffer them to escape from the pound, before a justice shall have certified that they may be removed without annoying others, the same justice, or some other to whom information shall be given of the fact, shall, by his order cause them to be slaughtered, and the carcasses with the hides on, but so cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Those who shall be employed in executing such orders, shall receive eighty-three cents for every head so buried, to be paid by the county wherein it shall happen. And every person appointed by the order, who shall refuse or neglect to execute it, shall be amerced in the sum of eighty-three cents for every head so directed to be buried. Every person shall so restrain his distempered cattle, or such as are under his care, as that they may not go at large off the land to which they belong, and when they die, shall bury them with their hides, in manner aforesaid; and knowingly offending in either of those instances, shall be amerced in the sum of four dollars for every head they shall neglect so to bury.

How they are to be obtained.

Proceedings where the cattle are found to be distempered.

Owners of distempered cattle to confine them, and bury them when dead.

Drivers of cattle to produce manifests of their droves and make oath thereto.

7. And be it further enacted, That from and after the passing of this act, every driver of nett cattle, shall, immediately after their coming into this commonwealth, go before the next justice of the county, and produce to him a true and perfect manifest, certified under the hand of a magistrate in the state from whence they last came, wherein shall be distinguished the sexes, ages, marks and



colours of all and every such cattle, and also, at the same time, produce bills of sale for them, and particularize the place of abode and name of the seller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifest and bill of sale, which oath the justice shall administer, and certify on the manifest, and shall enter in a book, by him to be kept for that purpose, a copy of the said manifest and certificate; and if any nett cattle shall be bought in this commonwealth in order to be driven into any neighbouring state, the driver shall produce his bill of sale to the next justice of the county where they shall be bought, and shall make oath that the said bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the said bill and manifest, in case there be any which the justice shall enter and certify in manner aforesaid, and also shall add a description of the cattle so bought, to the manifest, if any; and the like method shall be used by the drivers and justices, in all the other counties of this commonwealth, through which they pass, upon their arrival therein. And if any driver shall fail herein, he, she or they, shall forfeit and lose his, her, or their whole drove of cattle: And any justice of the peace, upon complaint to him thereof made, is hereby empowered to issue his warrant to the sheriff, or any constable of his county, forthwith to raise sufficient force, and to seize the cattle, and to cause the driver or drivers to come before him, or any other justice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he shall judge them forfeited, to be sold by the sheriff in the same manner as goods taken in execution; and the sheriff shall be allowed the same fee for the service, and shall also be allowed for keeping and providing for the said cattle, until they are sold, after the rate of three cents per head for every twenty-four hours, out of the money arising from the sale. But in case any person other than the driver or drivers so convicted, or their employers, shall appear before the justice before whom the judgment was obtained, before the cattle are sold, and shall make his, her, or their property in any of them appear, the sheriff shall, by order of such justice, restore the same to such owner or owners, upon payment of the charge of their keeping; or if any owner or owners shall within three months after the sale, make their property appear as aforesaid, the sheriff shall pay him, her, or them, by order of the justice, for their cattle, according to the sale, after deducting a proportionable part of the charges: And at the expiration of the said three months, the money arising from the sale shall be appropriated, one moiety to the overseers of the poor of the district where the driver shall be convicted, for the use of the district, and the other moiety to him, her, or them, who did inform or prosecute, and shall be paid them by the sheriff accordingly; and the sheriff shall return an account of the sales to the clerk's office, to be lodged among the records of the county.

Proceedings  
against them for  
failure of the du-  
ties hereby enjoined.

8. *Provided always*, That nothing herein contained shall be construed to extend to any of the inhabitants of this commonwealth who shall buy any nett cattle and be driving them home, or to any persons coming with their families and stocks to settle in this commonwealth.

Proviso as to driving cattle in certain cases.

9. All and every act or acts, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided always*,

Repealing clause.  
Proviso.





That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures or penalties which have accrued, been vested or incurred prior to the commencement of this act.

Commencement.

10. This act shall commence and be in force from and after the passing thereof.

CHAP. 72.—An ACT for the effectual suppression of vice, and punishing the disturbers of religious worship and sabbath breakers.

(Passed December 26, 1792.)

Punishment for  
profane swearing,  
cursing and drunk-  
eness.

1. *Be it enacted by the general assembly*, That if any person or persons shall profanely swear or curse, or shall be drunk, he, she, or they so offending, for every such offence, being thereof convicted by the oath of one or more witnesses (which oath any justice of the peace is hereby empowered and required to administer) or by confession before one or more justice or justices of the peace in the county or corporation, where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence, or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall upon such conviction forfeit and pay the sum of eighty-three cents for every such offence; and if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons by warrant or precept from any justice of peace before whom such conviction shall be, which warrant may be directed to the sheriff of the county, or to the constable in his respective precinct, or to the serjeant of a corporation, to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence.

Prosecution in two  
months.

2. *Provided always*, That every prosecution by virtue of this act for swearing, cursing, or for being drunk, shall be made within two months after the offence committed and not afterwards.

No licensed minister  
to be arrested  
while performing  
divine service.

3. No officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested.

Any person distur-  
bing a congrega-  
tion, shall be ar-  
rested and bound  
to good behaviour.

4. And if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship by any justice present, which justice being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county or corpo-

And may be pun-  
ished by fine and  
imprisonment.



ration, and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury.

5. If any person on a sabbath day shall himself be found labouring at his own, or any other trade or calling, or shall employ his apprentices, servants or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of one dollar and sixty-seven cents, for every such offence, deeming every apprentice, servant or slave, so employed, and every day he shall be so employed, as constituting a distinct offence. Penalty for labouring on Sunday.

6. Every person not being a servant or slave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars; to be recovered by the suit or prosecution of the overseers of the poor of the county or corporation, wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no *essoin*, protection, or wager of law shall be allowed; which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county or corporation, wherein the said offence shall be committed. Punishment for adultery or fornication.

7. All and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as is herein after provided) shall be, and the same are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act. Repealing clause. Provide.

8. This act shall commence and be in force from and after the passing thereof. Commencement.

#### CHAP. 73.—An ACT concerning waste.

(Passed December 26, 1792.)

1. *Be it enacted by the general assembly*, That if any tenant by the curtesy, tenant in dower, or otherwise for term of life or years, shall commit waste during their several estates or terms, of the houses, woods, or any other thing belonging to the tenants so held without special license in writing so to do, they shall be subject respectively to an action of waste, and shall moreover lose the thing wasted, and recompense the party injured in three times the amount at which the waste shall be assessed. Forfeitures incurred by tenant for life or years committing waste.

2. In case any of the said tenants shall aliene their estate, and notwithstanding retain possession of the same and commit waste, he in the reversion shall be entitled to his action of waste, and likewise recover against them the place wasted and treble damages.

3. If one tenant in common shall commit waste of the estate held in common, he shall be subject to an action of waste at the suit of the other tenant or tenants in common. Action of waste by tenant in common.

4. An action of waste shall be maintainable by the heir, whether within or of full age, for waste done in the time of his ancestor, as well as in his own time. By heirs.





5. If tenant for life commit waste and he in the reversion brings his action of waste and dieth before judgment, his heir may bring an action of waste for the same.
- By wards against their guardians. 6. If a guardian shall commit waste of the estate of his ward, such ward when he attains his full age, shall have his action to recompense him for the injury.
- Process in actions of waste. 7. The process in an action of waste, shall be summons, attachment, and distress; and if the defendant appear not upon the distress, the waste shall nevertheless be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act.
- Tenant not to commit waste pending the action. 8. After the commencement of any suit in any court of this commonwealth, the tenant shall have no power to commit waste or estrepement of the land in demand, whilst such suit is depending; and if he do, the sheriff shall be commanded to keep the same at the suit of the plaintiff.
- Commencement. 9. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 74.—An ACT concerning weights and measures.

(Passed December 26, 1792.)

Preamble.

1. Whereas the general assembly of Virginia, at their session in the year one thousand seven hundred and thirty-four, did pass an act, intituled, "*An act for more effectually obliging persons to buy and sell by weights and measures, according to the English standard:*"

Act of 1734 to be in force until congress makes some provision on the subject.  
Provide as to appropriation of the penalties.

2. *Be it therefore enacted by the general assembly,* That the said act shall continue and remain in force, until the congress of the United States shall have made provision on that subject.

3. *Provided always,* That all fines, forfeitures and penalties in the said act mentioned, shall be and enure, one moiety to the commonwealth, and the other to the use of the informer.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 75.—An ACT concerning stealing tobacco on the highways.

(Passed December 15, 1792.)

Felony to steal tobacco on the highway.

1. *Be it enacted by the general assembly,* That all and every person and persons, that shall at any time after the commencement of this act, either in the night or day, take, steal and carry away, any hogshead, or cask of tobacco, which shall be lying on or near any public highway, or any part of the tobacco contained in the same hogshead or cask, although the said hogshead or cask may not be in the possession of the owner thereof, shall be adjudged a felon, and be punished as in other cases of felony.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 76.—An ACT for appointing public notaries.

(Passed December 27, 1792.)

Preamble.

1. Whereas it will be for the ease and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries should be appointed:

Public notaries, how to be appointed.

2. *Be it therefore enacted,* That the governor with advice of council, for the time being, is hereby empowered and required to





nominate and appoint so many notaries public as to him shall seem necessary; and upon the death, resignation or removal of any such notaries public, to appoint others in his or their room, which said notaries public shall hold their respective offices during good behaviour, and shall use and exercise the said office of notary public for such places, and within such limits and precincts as the governor and council shall direct, to whose protestations, attestations and other instruments of publication due credence is hereby given:

*Provided nevertheless*, That every notary public shall previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his said office; and shall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and also an oath that he will without favour or partiality, honestly, diligently and faithfully discharge the duties of a notary public.

To give bond and security, and take oaths of fidelity and of office.

3. *And be it further enacted*, That every public notary shall and may demand and receive for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of eighty-three cents, and no more.

Their fees.

4. This act shall commence in force from and after the passing thereof.

Commencement.

CHAP. 77.—An ACT to empower securities to recover damages in a summary way.

(Passed December 27, 1792.)

1. *Be it enacted*, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors or administrators, upon any note, bill, bond or obligation, and the amount of such judgment, or any part thereof hath been paid or discharged by such security or securities, his, her or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her or their heirs, executors or administrators.

Summary remedy for securities in notes or obligations, against their principals.

2. *And be it further enacted*, That where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been or shall be two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note or other obligation, for the payment of money or other thing, and judgment hath been, or hereafter shall be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

For one security against another jointly bound with him.

3. *And be it further enacted*, That no security or securities, his, her or their executors or administrators, shall be suffered to confess

Securities not to suffer judgments to go against them



by confession or default, to the injury of the plaintiff.

judgment, or suffer judgment to go by default, so as to distress his, her or their principal or principals, if such principal or principals will enter him, her or themselves a defendant or defendants to the suit, and tender to the said security or securities, his, her or their executors or administrators, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending.

Summary remedy of common bail against the defendant.

4. *And be it further enacted*, That in all cases where judgment hath been or shall hereafter be entered up in any of the courts of record in this commonwealth, against any person as common bail for the appearance of another to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid or discharged by such common bail, his, her or their heirs, executors or administrators, it shall and may be lawful for such common bail, his, her or their heirs, executors or administrators, to obtain judgment by motion against the person or persons, for whose appearance they were bound, his, her or their heirs, executors or administrators, for the full amount of what shall have been paid by the said common bail, his or her heirs, executors or administrators, in any court where judgment may have been entered up against such common bail: *Provided always*, That no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 73.—AN ACT concerning witnesses, and prescribing the manner of obtaining and executing commissions for taking their depositions in certain cases.

(Passed November 29, 1792.)

Who shall not be admitted as witnesses.

1. *Be it enacted by the general assembly*, That no person convicted of treason, murder or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

2. No person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

3. No negro, mulatto or Indian, shall be admitted to give evidence, but against or between negroes, mulattoes or Indians.

Witnesses failing to attend may be fined, and liable to action of the party.

4. If any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the subpoena issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the nonattendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.





5. If any person so summoned and attending in any of the causes above mentioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorized to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence. Refusing to testify, how to be dealt with.

6. Witnesses shall be privileged from arrests in all cases except treason, felony and breaches of the peace during their attendance at any court, or other place where their attendance shall be by subpoena first duly executed by a sworn officer, or by some indifferent person, who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode: *Provided always*, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any subpoena, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such subpoena expressed. Their privilege. Provide.

7. In all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any subpoena or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found. How to be summoned.

8. Every witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents per day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts. Allowance for attending county courts, referees, surveys, &c.

9. Every witness so summoned and attending the court of appeals, high court of chancery, general court, or any district court, shall be paid by the party at whose suit the summons issued, four cents per mile for travelling to the places of attendance, and the same for returning, besides ferriages, and one dollar and four cents per day for his attendance, which allowance shall be entered by the clerk of course, except where disputes arise concerning the same, and then such disputes shall be determined by the court. Witnesses in all cases, as well civil as criminal, shall be sworn as to their travelling, ferriages and attendance, for which purpose the clerk or some of his assistants specially empowered by the court, or the commissioners, referees or surveyor as the case may be, shall administer the oaths. For attending the superior courts.

10. No witness shall be permitted to charge his attendance in more than one suit at the same time, but if he be summoned to at- For attending in several suits at the same time.



tend in several suits, he may charge his attendance to either of the parties by whom he shall be summoned at his election.

Charge allowed of only three witnesses to one fact.

Commissions for their examination how to be obtained, when a witness is about to leave the country, or is unable to attend.

11. There shall not be allowed in the bill of costs the charge of more than three witnesses for the proof of any one particular fact.

12. When any witness shall be about to depart the country, or by age, sickness or otherwise shall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any justice of the peace, the clerk of the court in which any suit is or shall be depending, may, on request of either party, award a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness should be unable to attend; but the party obtaining such commission, shall give reasonable notice to the other party, of the time and place of taking the deposition, otherwise the same shall be void.

When a witness resides beyond sea, or in any foreign country.

13. Upon affidavit that any witness resides beyond sea, or in any foreign country, or in any other of the United States, the court wherein the suit is depending, may, on request of either party, direct a commission to issue from the clerk's office, directed to such commissioners, not exceeding five, as shall be nominated and agreed upon by the parties litigant; for which purpose the party applying for a commission in such cases, shall give the adverse party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commission shall issue, and if the adverse party, his attorney or agent shall not attend for the purpose in that case, the party praying the commission may nominate the commissioners himself, any three of whom in either case may proceed to execute the said commission: *Provided nevertheless*, That in either case, reasonable notice shall be given to the adverse party, of the time and place of taking such deposition, and the costs of giving notice as aforesaid, as well as of taking any deposition or depositions in any or either of the United States, or beyond sea, or in any foreign country, may be taxed by the court against the party, who in their opinion, ought in justice to pay the same.

When a claim or defence depends on a single witness.

14. If any party in any suit at common law or in chancery, shall make oath, that he verily believes his claim or defence (as the case may be) or a material point thereof depends on a single witness, the court, or the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, although he or she be not about to depart the country, nor under any disability, the party in such case, giving reasonable notice of the time and place of taking such deposition to the adverse party.

Where a witness to a will resides out of the state.

15. When any will shall be produced to any court having jurisdiction in the case of such will, for probat, and any witness or witnesses attesting the same shall reside out of this commonwealth, it shall be lawful for such court to issue a commission or commissions annexed to such will, and directed to the presiding judge of any court of law, to any notary public, mayor, or other chief magistrate of any city, town, corporation, or county, or to such other person or persons as by laws of such country, where such witness or witnesses may be found, are duly authorized to administer an oath, empowering him or them to take and certify their attestations. If the person to whom such commission shall be directed, shall certify in the manner such acts are usually authenticated by him or





them, that the witness or witnesses personally appeared before him or them, and made oath, or affirmed, as the case may require, that the testator signed and published the writing annexed to such commission, as his last will and testament, or that some other person signed it by his direction; that he was of disposing mind and memory, and that he or they subscribed their names thereto in his presence, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the court from whence such commission issued.

16. And whereas great inconvenience may arise to the suitors in the several courts of this commonwealth, who are litigant with persons residing without this commonwealth, and have not agents or attorneys within the same, by the death or removal of witnesses, whose depositions cannot legally be taken for want of notice to such absent persons:

17. *Be it therefore enacted*, That when any commission shall be obtained, to take the deposition of a witness in a suit depending in any of the courts of this commonwealth, where the plaintiff or defendant in such suit, doth not reside within the same, or hath not an agent or attorney within the same, to whom notice of the time and place of taking such deposition, can be given, then the person obtaining such commission, having published in the Virginia gazette, or in any other public newspaper printed within this commonwealth, four weeks successively, the time and place, when and where, the witness is to be examined, and the name of the witness, together with the names of the parties to the suit in which such witness is to be examined; it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorized by the commissioner issuing from the court agreeable to law, where the suit depends as aforesaid; and such deposition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commission issued, shall there be filed and allowed to be read in evidence in the same manner, and under the like restrictions as if notice had been duly given to the opposite party; any law, usage or custom, to the contrary in any wise notwithstanding; and the printer may demand and receive the sum of two dollars for publishing such advertisement four weeks, which shall be taxed in the bill of costs, if the party chargeable therewith shall prevail in the suit.

How notice is to be given where one of the parties lives out of the state, and has no agent therein.

18. All and every act and acts, clauses and parts of acts, for, or concerning any matter or thing within the purview of this act, shall be, and the same are hereby repealed.

19. This act shall commence in force from and after the passing thereof.

Repealing clause.

Commencement.

CHAP. 79.—An ACT repealing under certain restrictions, all statutes or acts of the parliament of Great Britain, heretofore in force within this commonwealth.

(Passed December 27, 1792.)

1. Whereas by an ordinance of convention, passed in the month of May, in the year of our Lord, one thousand seven hundred and seventy-six, intituled, "*An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other*"

Preamble.





cases, 'till the same can be more amply provided for," it is among other things ordained, "That the common law of England, all statutes or acts of parliament made in aid of the common law, prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, together with the several acts of the general assembly of this colony now in force, so far as the same may consist with the several ordinances, declarations and resolutions of the general convention, shall be the rule of decision, and shall be considered in full force, until the same shall be altered by the legislative power of this colony."

2. And whereas the good people of this commonwealth may be ensnared by an ignorance of acts of parliament, which have never been published in any collection of the laws, and it hath been thought advisable by the general assembly, during their present session, specially to enact such of the said statutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of Virginia:

No statute or act of the parliament of Great Britain to have any force within this state.

3. *Be it therefore enacted by the general assembly,* That so much of the above recited ordinance as relates to any statute or act of parliament, shall be, and is hereby repealed; and that no such statute or act of parliament shall have any force or authority within this commonwealth.

Proviso as to rights arising under, and crimes committed against them before the commencement of this act.

4. *Provided always,* That all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made.

Saving the right to writs remedial and judicial, and the proceedings thereon.

5. Saving moreover to this commonwealth, and to all and every person and persons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial which might have been legally obtained from, or sued out of any court or jurisdiction of this commonwealth, or the office of the clerk of any such court or jurisdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, constructions and purposes, as if this act had never been made; any thing herein contained, to the contrary, or seeming to the contrary, notwithstanding.

Commencement.

6. This act shall commence and be in force, from the passing thereof.

CHAP. 80.—An ACT for supplying the defect of repealing clauses, to certain acts therein mentioned.

(Passed December 23, 1792.)

Preamble.

1. Whereas the general assembly, at their present session, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts subsequent in their date to other acts on the same subject, have no repealing clauses, and inconveniences may arise from the omission thereof:

All acts antecedent to certain enumerated acts on the same subjects repealed.

2. *Be it therefore enacted,* That all and every act and acts, clause and clauses, part and parts of acts, antecedent to, and within the purview of an act passed by the general assembly of this commonwealth, at their session in October, one thousand seven hundred and eighty-five, intituled, "*An act to prevent the circulation of private bank notes,*" one other act passed at the same session,



intituled, "*An act concerning estrays*," one other act of the same session, intituled, "*An act concerning public roads*," and one act passed at their session in the year one thousand seven hundred and eighty-six, intituled, "*An act against usury*," one other act of the same session, intituled, "*An act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," and one other act passed in their session of one thousand seven hundred and eighty-seven, intituled, "*An act for the relief of persons who have been or may be injured by the destruction of the records of county courts*," for so much of every such act, clause or part of act as relates to any subject, matter or thing, within all or any of the provisions in the said recited acts, or either of them contained, shall be and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject.

3. This act shall commence and be in force from the passing Commencement thereof.

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## RESOLUTIONS.

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### IN THE HOUSE OF DELEGATES.

TUESDAY, 16th October, 1792.

*Resolved*, That the executive be authorized to direct such temporary defensive operations for the protection of the frontiers, as will secure the citizens thereof from the hostile invasions of the Indian enemy; and that the governor be requested to communicate with the president of the United States, for the purpose of establishing adequate and permanent arrangements for their security and defence.

In order to carry this object into full and complete effect, *Resolved*, That the executive be authorized to allow the same pay to the troops that has been usually allowed by this state, and to make due application to the war department of the United States for the reimbursement of all such expenses as may be incurred by this state, for the purpose aforesaid.

October 20th, 1792—Agreed to by the senate.

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SATURDAY, 20th October, 1792.

Whereas the commissioners appointed to superintend the clearing and improving of the navigation of that part of the river Roanoke, which lies within this commonwealth, and of its branches Dan and Staunton rivers, have informed this house that they have nearly





completed the said work, and that the inhabitants of the counties of this state, adjacent to the said river and its branches, are willing to aid in clearing the great falls near Halifax in the state of North Carolina :

*Resolved therefore,* That the legislature of the state of North Carolina, be informed of the progress made in improving the navigation of the river Roanoke within this state, and of Dan and Staunton rivers, and of the desire of many of the inhabitants of this commonwealth, to aid in clearing the great falls of the said river, near the town of Halifax, in the state of North Carolina.

October 24th, 1792—Agreed to by the senate.

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TUESDAY, 18th December, 1792.

*Resolved,* That the executive ought to continue such measures (on the most economical plan) in pursuance of the resolution of the 16th of October last, as may be effectual for the defence and security of the frontiers.

*Resolved,* That the executive should from time to time communicate to the general government the sums advanced for the defence of the frontiers, and require that the same be reimbursed.

December 18th 1792—Agreed to by the senate.

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FRIDAY 28th, 1792.

Whereas by the act for appropriating the public revenue, the treasurer has been directed to exchange the certificates in the sinking fund for any certificates bearing an interest of six *per centum*, which have been issued since the first day of January, 1790, and it appears that certain arrears of interest are due on the said certificates :

*Resolved therefore,* That the auditor be directed to endorse on all the certificates belonging to the sinking fund, which may be given in exchange for others, that the interest on the said certificates has been paid to the first day of January, 1793.

December 28th, 1792—Agreed to by the senate.



# ACTS

PASSED AT A

## GENERAL ASSEMBLY

OF THE

## COMMONWEALTH OF VIRGINIA,

BEGUN AND HELD AT THE CAPITOL, IN THE CITY OF RICHMOND, ON  
MONDAY, THE TWENTY-FIRST DAY OF OCTOBER, ONE THOUSAND  
SEVEN HUNDRED AND NINETY-THREE.

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CHAP. 1.—An ACT to amend the act, for regulating the militia of this commonwealth.

(Passed December 2, 1793.)

1. Whereas it is represented to this present general assembly, Preamble.  
that many county and corporation courts in this commonwealth, have  
failed to recommend proper persons for officering the militia of the  
several regiments, battalions and companies within their respective  
jurisdictions, according to the directions of the act, intituled, "*An  
act for regulating the militia of this commonwealth,*" and it is ex-  
pedient that the said act should be carried into full effect:

2. *Be it therefore enacted,* That the several county and corpora- County and corpo-  
ration courts to re-  
commend officers.  
tion courts, shall, and they are hereby required, on or before their  
respective courts, to be held in the month of May next, recommend  
to the governor and council the officers necessary to compleat the  
regiments, battalions and companies within their respective juris-  
dictions, pursuant to the directions of the above recited act, recom-  
mending the said officers according to their grades and seniority  
within their respective companies, and in case of failure herein,  
each and every justice so failing, shall forfeit and pay ten dollars, Penalty for ne-  
glect.  
to be recovered as other penalties incurred by law, for failing to dis-  
charge the duties of their respective offices; one moiety whereof  
shall be applied to the use of the commonwealth, in aid of the con-  
tingent fund, and the other to the use of the informant or person  
suing for the same.

3. *And be it further enacted,* That all vacancies hereafter hap- Vacancies, how to  
be supplied.  
pening in the officers of the militia of this commonwealth, shall be  
supplied by appointment of the governor, with the advice of the  
privy council, or recommendation from the respective county and  
corporation courts. Any thing in the said recited act to the con-  
trary, notwithstanding.



Part of the act of  
1792 repealed.

4. So much of the said act as authorizes the adjutant general to convene the inspectors of brigades for the purpose of receiving instructions, shall be, and the same is hereby repealed.

Commissioned of-  
ficers to be trained  
and instructed.

5. *And be it further enacted*, That the commissioned officers of the several regiments shall meet twice in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors. The days and places of meeting to be fixed on by the commanding officers of the brigades to which the regiments belong. The officers thus assembled, shall each continue two days, and no longer, every time they shall be called out. Every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by a court martial, shall forfeit and pay five dollars, to be appropriated as the other fines are by the said act.

Part of the act of  
1792 repealed.

6. *And be it further enacted*, That the seventh section of the said recited act, shall be, and is hereby repealed.

Fines on noncom-  
missioned officers  
and soldiers for not  
attending musters.

7. *And be it further enacted*, That instead of a fine of fifty cents upon any noncommissioned officer or soldier, for failing to appear at muster, according to the directions of the above recited act, a fine of seventy-five cents shall be imposed. If any noncommissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may, if it appear reasonable, from the indigent circumstances of the delinquent, remit the fine incurred by him; provided every such delinquent, who hath a firelock of any kind, shall make it appear, that he brought the same to the muster.

On infants and ap-  
prentices.

8. The fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian or master.

Musters of com-  
panies.

9. There shall be a muster of each company of militia once in every two months, except the months of December, January, February and March, in every year.

Training the mili-  
tia in frontier  
countries may be  
dispensed with.

10. And whereas it is improper, that the militia in the frontier countries, should be drawn from their dwellings in times of danger, merely for the purpose of training: *Be it enacted*, That the commanding officers of the brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in such companies, battalions or regiments within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Lists of fines,  
when to be deli-  
vered to the col-  
lectors.

11. Lists of fines shall be delivered to the sheriffs on or before the thirty-first day of December, instead of the first day of January in every year.

Exemption of  
millers from mili-  
tia duty.

12. The exemption of millers from militia duty, under the above recited act, shall be construed only to extend to such persons as are actually and necessarily employed in the management of water grist mills, legally established.

Of ferrymen.

13. All ferrymen actually and necessarily employed as such, shall be, and they are hereby exempted from militia duty.

Of quakers and  
menonists.

14. And all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from actual service in the





militia; provided they shall furnish a substitute for such services, to be approved of by the commanding officer of the company.

15. *And be it further enacted*, That so much of the above recited act, as relates to the exemption of quakers and menonists from militia duty, is hereby repealed.

16. *And be it further enacted*, That the county of Loudoun shall compose two regiments and four battalions; that the counties of Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover and Frederick, shall compose two regiments and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Richmond and Westmoreland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Powhatan and Cumberland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Charles City and New Kent, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of Elizabeth City and Warwick, one battalion; and the counties of York and James City, one battalion, which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of Richmond and borough of Norfolk, shall compose each one regiment and two battalions.

Division of the militia into regiments and battalions.

17. A company of militia established by virtue of the above recited act, shall not exceed one hundred, nor less than fifty rank and file. Whensoever any company district shall contain more than one hundred persons, subject to be enrolled in the militia, by the captain or commanding officer thereof, the same shall be divided into two districts, to be established in the same manner, as other districts are established by the said act; which new district thus formed, shall constitute an additional company, to the battalion of which it is a part.

Number of men in each company.

18. And whereas the officers of the militia in several counties of this commonwealth, have failed to arrange their respective counties into districts for the formation of the several battalions and companies, established by the act for regulating the militia of this commonwealth: *Be it enacted*, That a further time of eight months, from the passing of this act, shall be allowed the said officers for arranging the proper districts, pursuant to the directions of the above recited act. The several battalions and companies established by this act, shall be arranged into districts in the same manner as the battalions and companies established by the above recited act.

Further time allowed for forming battalion and company districts.

19. *And be it further enacted*, That so much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, shall be composed of men from eighteen to twenty-five years of age, be, and the same is hereby repealed.

Part of the act of 1792 respecting light companies, repealed.

20. *And be it further enacted*, That in all cases of doubts respecting the age of any person enrolled or intended to be enrolled in any company of militia, the party questioning, shall prove his

Rules respecting ages of persons to be enrolled.



age to the satisfaction of the officers of the company, within whose bounds he may reside, or a majority of them.

Respecting enrolling militiamen removing out of the bounds of their companies.

21. *And be it further enacted*, That every militiaman removing out of the bounds of one company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militiaman shall produce to the captain or commanding officer of the company, in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enrol him in the numerical class, specified in the said certificate. And if the militiaman shall fail to produce the certificate as above directed, he shall be enrolled in the class destined to perform the next tour of duty, and the commanding officer of the company refusing to grant a certificate upon application to him made, shall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines imposed by this act.

Money arising under the militia laws, how to be appropriated.

22. *And be it further enacted*, That all monies passing into the treasury of this commonwealth by virtue of this act, and the act "*For regulating the militia of this commonwealth*," shall be appropriated as a fund for the purpose of supporting the necessary officers for carrying this law into effect, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state; the surplus, if any, to be subject to such other appropriations as the general assembly may from time to time appoint and direct; and the treasurer of the commonwealth shall keep all the monies arising from fines under the militia law, separate from all other monies, and keep a separate book of the same, and the expenditures thereof; any thing in any former law to the contrary hereof notwithstanding.

Copies of the laws respecting the militia to be furnished to the officers.

23. *And be it further enacted*, That the governor shall cause a sufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by establishing an uniform militia throughout the United States*," to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain be furnished with one copy.

Pay, &c. of the militia enlisted for fixed periods.

24. And whereas it sometimes happens that the arsenal and other public property is protected by militia enlisted for a fixed period in preference to draughts therefrom: And whereas doubts have arisen, whether guards of the above description are comprehended in the thirty-first section of the militia law: *Be it enacted*, That the said section does comprehend the militia, when called into service, by enlistment for fixed periods, in like manner, as if they were employed in the usual manner.

When employed by water.

25. *And be it enacted*, That whenever the public service shall require the employment of militia by water, that the said service shall be performed for the same pay and under the same regulations, as is given and established with respect to service by land.

Patrollers how to be appointed.

26. *And be it further enacted*, That the commanding officer of every battalion of militia, or the oldest captain in the county where no commanding officer of a battalion shall reside, shall from time





to time, as he shall deem it necessary, appoint an officer and so many men of militia, as to him shall seem necessary, once in every month, or oftener, if thereto required by such officer, to patrolle and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and take them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person, as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrolle, the officer of every party shall, once in every month at least, return a report in writing upon oath, to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents, for every twelve hours each of them shall so patrolle; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed.

Their duty.

Pay.

27. *And be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

28. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 2.—An ACT supplementary to the act to amend the act for regulating the militia of this commonwealth.

(Passed December 10, 1793.)

1. *Be it enacted by the general assembly*, That the governor with the advice of council, shall be, and he is hereby authorized and required, to commission the several major generals, brigadier generals and adjutant general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth.*"

General officers, how to be commissioned.

2. *And be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit: "*I do swear, that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of \_\_\_\_\_ of the militia of Virginia, according to the best of my skill and judgment: So help me God.*"

How qualified.

3. This act shall commence and be in force from and after the passing thereof.

Commencement.



CHAP. 3.—An ACT for further continuing and amending the act, intituled, “An act for reducing into one the several acts concerning executions, and for the relief insolvent debtors.”

(Passed December 10, 1793.)

Writs of execution, how to be issued and returned.

Fifteen days at least between teste and return. From the general and district courts when returnable.

Form of the writs.

Against goods and chattels.

Debt.

Case, *assumpsit*.

Trespass.

For the defendant.

Covenant.

1. *Be it enacted by the general assembly*, That all persons who have, or shall hereafter recover any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *feri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That executions may be issued from the general court returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof: *And provided also*, That if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof; and that the forms of the said several writs shall be as follows, *mutatis mutandis*, to wit:

“A FIERI FACIAS IN DEBT.

“*The commonwealth of Virginia, to the sheriff of* county, greeting: We command you, that of the goods and chattels of A. B. late in your bailiwick, you cause to be made the sum of \_\_\_\_\_, which C. D. lately in our \_\_\_\_\_ court hath recovered against him for debt; also the sum of \_\_\_\_\_ which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said \_\_\_\_\_ before the judges or justices (as the case may be) of our said court, the \_\_\_\_\_ day of \_\_\_\_\_, to render to the said C. D. of the debt and damages aforesaid. And have then there this writ. Witness,” &c.

THE SAME IN CASE, UPON A PROMISE.

As before unto—“for his damages which he sustained, as well by reason of his not performing a certain promise and assumption to the said C. D. by the said A. B. lately made, as for his costs by him about his suit in this behalf expended,” &c.

IN TRESPASS.

As before unto—“for damages, as well by occasion of a certain trespass by the said A. B. to the said C. D. offered, as for his costs,” &c.

IF FOR THE DEFENDANT, SAY,

“For his costs about his defence in a certain action at the suit of the said,” &c.

IN COVENANT.

As before unto—“for damages, &c. by occasion of a breach of a certain covenant between the said A. B. and C. D. lately made,” &c.





## THE FORM OF A WRIT OF ELEGIT.

"The commonwealth, &c. greeting: Whereas A. B. at our court, &c. before our judges (or justices) held, hath recovered against C. D. the sum of \_\_\_\_\_, which to the said plaintiff was adjudged for a certain debt or damages," as before;—"and the said A. B. hath chosen to have delivered to him all the goods and chattels of the said C. D. saving only the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, to have and to hold the goods and chattels aforesaid as his own proper goods, and the said moiety as his freehold to him and his assigns, until he shall have levied thereof the debt and damages aforesaid: Therefore we command you that you cause to be delivered, all the goods and chattels of the said C. D. saving the oxen and beasts of his plough, and also a moiety of all his lands and tenements in your bailiwick, whereof he at the day of obtaining the said judgment was seized, or at any time afterwards, by reasonable price and extent, to have and to hold the said goods and chattels, to him the said A. B. as his own proper goods and chattels, and the said moiety as his freehold, to him and his assigns, until he shall have levied thereof the debt and damages aforesaid, and that you certify our said judges (or justices) under your own seal, and the seals of those by whose oath you shall make this extent and appraisement, how you execute this writ, the \_\_\_\_\_ day of \_\_\_\_\_. And have then there this writ," &c.

Against lands and tenements.

## A CAPIAS AD SATISFACIENDUM.

"The commonwealth, &c. greeting: We command you, that you take A. B. late of \_\_\_\_\_, if he be found within your bailiwick, and him safely keep, so that you have his body before our judges (or justices) of our \_\_\_\_\_ court, &c. the \_\_\_\_\_ day of \_\_\_\_\_, to satisfy C. D. the sum of \_\_\_\_\_, which the said C. D. hath recovered against him for debt; also," &c. as before.

Against the body.

## IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

Which said writs so issued, shall be executed by the sheriff or other officer to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned, to wit:

Forms of the returns.

## THE RETURN OF A FIERI FACIAS.

"By virtue of this writ to me directed, I have caused to be made the within mentioned sum of \_\_\_\_\_, of the goods and chattels of the within named A. B. which said sum of \_\_\_\_\_ before the judges (or justices) within mentioned, at the day and place within contained, I have ready, as that writ requires."

Fieri facias executed.

OR,

"The within named A. B. hath no goods or chattels within my bailiwick, whereof I can make the sum within mentioned."

Where no goods.

OR,

"By virtue, &c. I have caused to be made of the goods and chattels of the within named A. B. the sum of \_\_\_\_\_, which I have ready to render to the within named C. D. in part of the debt and damages within mentioned: And I do further certify, that the said A. B. hath no more goods and chattels within my bailiwick, whereof at present I can make the residue of the said debt and damages, as by the said writ is required."

Where part is levied.





## RETURN OF A WRIT OF ELEGIT.

*Elegit.*

"Inquisition indented, taken at \_\_\_\_\_, in the county aforesaid, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord \_\_\_\_\_, before me E. F. sheriff in the county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by the oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and sworn, upon their oath do say, that A. B. in the said writ to this inquisition annexed, named, the day of the caption of this inquisition, was possessed of the goods and chattels following, as of his own proper goods, to wit: \_\_\_\_\_ of the price of \_\_\_\_\_, which I the said sheriff, have caused to be delivered to the same C. D. to hold to him as his own proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said writ mentioned; and further the said jurors upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his own demesne, as of fee, of and in (here name the houses and lands) with the appurtenances of the annual value in all the issues beyond reprises, of \_\_\_\_\_ pounds, \_\_\_\_\_ acres, of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said A. B. which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent, have delivered, to hold to him and his assigns, as his frechold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath, do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements, in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition, have severally put our seals, the day, year and place above mentioned."

*Elegit executed.*

## RETURN OF A CAPIAS AD SATISFACIENDUM.

*Capias executed.*

"By virtue of this writ to me directed, I have taken the within named A. B. whose body, before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy C. D. of the debt and damages within mentioned, as within to me is commanded."

OR,

*Not executed.*

In what manner another execution may be issued, where the first has not been served, or has not been satisfied.

"The within named A. B. is not found within my bailiwick."

2. When any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where upon a *capias ad satisfaciendum* the sheriff shall return that the defendant is not found, the clerk may issue a *feri facias*; and if upon a *feri facias*, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a *capias ad satisfaciendum* upon the same judgment; and where part of a debt shall be levied upon an *elegit*, a new *elegit* shall issue for the residue; and where *nihil* shall be returned upon any writ of *elegit*, a *capias ad satisfaciendum*, or *feri facias* may issue, and so *vice versa*; and where one judgment



is obtained against several defendants, execution thereon shall issue as if it were against one defendant and not otherwise.

3. If a tenant by *elegit* be evicted of his title in the lands, tenements, or hereditaments, which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default before satisfaction shall be made him for his debt, or damages and costs, he shall and may have a writ of *seire facias*, against the debtor, his heirs, executors or administrators, and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

Tenant by *elegit* if evicted may have a *seire facias* against his debtor and another execution for his debt.

4. When any judgment or recognizance shall be extended, the same shall not be avoided or delayed, by occasion that any part of the lands or tenements extendible, are or shall be omitted out of such extent.

No extent to be avoided for omission of part of the lands extendible.

5. Saving always to the party and parties whose lands shall be extended, his and their heirs, executors and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

Saving remedy of contribution.

6. *Provided nevertheless*, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir or devisee within the age of twenty-one years, during such minority of such heir or devisee, for or in respect of any lands to such heir or devisee, descended or devised further or otherwise than might have been made before the making of this act.

Infants' lands excepted.

7. If any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution for any debt or damages recovered, his or their executors or administrators may, after the death of the person so dying in execution, lawfully sue forth, and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

If a debtor dies in prison, creditors may have new executions against his estate.

8. *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments, of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in *bona fide*, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors with their privy in discharge of his or their debts or some part thereof.

Except his lands *bona fide* sold for the payment of his debts.

9. If any person taken in execution, be delivered by privilege of either house of assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

Persons in execution delivered by privilege of general assembly to return in execution when that ceaseth. Executions from a county court may be served in any other county.

10. Where judgment shall be obtained in any county court, or other inferior court of record within this commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained shall remove himself or his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of *fieri facias* or *capias ad satisfaciendum*, or any other legal or proper writ of execution or attachment for the nonperformance of a





decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or serjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods shall be found; which said sheriff or other officer to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

Property in goods bound from delivery of execution to the officer.

11. No writ of *fieri facias*, or other writ of execution, shall bind the property of the goods against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year when he received the same; and if two or more writs shall be delivered against the same person in the same day, that which was first delivered shall be first satisfied. If any sheriff, coroner, or other officer, to whom any execution shall be delivered, shall fail or neglect to endorse thereon the day of the month and year when he received the same, every such person, for every such failure, shall be liable on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen per centum upon the amount of the said execution if it be for money or tobacco, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved for all damages arising from such failure.

Time of delivery to be endorsed by the officer.

Goods taken by execution when and how to be sold.

12. On all executions which have heretofore issued, or shall hereafter be issued, the sheriff or other officer having published notice of the time and place of sale, at the door of the courthouse of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same.

Officer may accept security for goods until the day of sale.

13. *Provided always*, That if the owner of such goods and chattels shall give sufficient security to such sheriff or officer, to have the same goods and chattels forthcoming at the day of sale, it shall be lawful for the sheriff or officer to take a bond from such debtor and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of sale appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor until that time; and if the owner of such goods and chattels, shall fail to deliver up the same, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable,

Proceedings on the bonds where the goods are not delivered.



his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, till payment and costs, provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond, which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security either to have the goods forthcoming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied.

No security to be taken on executions thereon, or on replevy bonds.

14. And for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

15. If any sheriff or other officer shall fail to deliver or return any bond taken for the forthcoming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

Forthcoming bonds when to be returned.

16. When execution shall issue against the estate of any sheriff, under sheriff, serjeant of a corporation, coroner or constable, or their securities, or the heirs, executors or administrators of either of them, upon a judgment obtained against such sheriff, under sheriff, serjeant of a corporation, coroner or constable, or securities, or the heirs, executors or administrators of either of them, for money or tobacco received by such sheriff, under sheriff, serjeant of a corporation, coroner or constable, by virtue of any execution or process, levied or executed by him, or them, or for any money collected or received by them in any manner, as sheriffs, serjeants, coroners or constables, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered; and for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security of any kind is to be taken." In like manner on all executions which may issue against any collector of the poor rates, his heirs, executors or administrators, or against any overseer or overseers of the poor, his, or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken."

No security to be taken on executions against sheriffs, coroners or constables.

Collectors of the poor rates.

Overseers of the poor.

17. No sheriff or other officer, to whom any writ of *feri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *feri facias* shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco; provided there be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods or chattels of such de-

In what cases slaves may not be seized.





fendant, within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *feri facias*.

Names of slaves taken in execution to be endorsed thereon.

18. Where any slave or slaves shall be taken in execution, and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue.

When a writ of *venditioni exponas* shall be issued.

19. If the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following: "*The commonwealth, &c. greeting: We command you that you expose to sale those goods and chattels of A. B. to the value of \_\_\_\_\_, which, according to our command, you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our \_\_\_\_\_ court, to satisfy C. D. the sum of \_\_\_\_\_, wherof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court; and that you have, &c.*"

Form of the writ.

Slaves and live stock taken in execution to be supported by the officer.

20. When any sheriff or other officer shall serve any writ of execution on slaves, horses, or any live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required, to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock be sold, or otherwise legally discharged from such execution, and upon the return of any execution, the court may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such slaves or stock; and the said officers shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

Expense thereof to be paid out of the proceeds of the sales.

When the officer may demand of the plaintiff bond of indemnity for selling.

21. If any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney, or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney or agent refuses or fails to do within a reasonable time after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

Where goods cannot be sold for three fourths of their value, the debtor may give bond and security to pay the debt within twelve months.

22. If the goods or other estate taken in execution, cannot be sold for three fourths of their value at least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient security, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor, the goods or estate so taken; and where no such bond and security shall be offered, by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three fourths of their value at least, the she-





riff or other officer, shall set up and sell the same for money or tobacco, (as the case may be) to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor. Or they may be sold on twelve months credit.

23. All and every bond or bonds so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence such execution issued, there to be safely kept, until demanded by the creditor or his attorney. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, or the attorney of such creditor or assignee, to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued; and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution, the sheriff or other officer shall not take any security, for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same. Tenor of the bonds. Proceedings thereon.

24. If any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee, (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon "no security is to be taken." Any law to the contrary notwithstanding. Where the obligors or obligees die.

25. *Provided*, That if on return of such execution, the debtor can prove the payment of the money for which such execution was levied either to the assignee or original obligee, before notice of such assignment (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right, and the person in whose names such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon such execution, that "no security shall be taken." *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue, or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any Executions thereon, issued after payment of the money, may be quashed. In what cases such bonds shall not be taken.



money or tobacco collected or received by him or them, in any manner as sheriffs or public collectors; nor to attornies receiving the money of their clients; nor to securities under an act, intituled, "*An act to empower securities to recover damages in a summary way.*"

Separate bonds for the surplus to be taken to the debtor.

26. Wheresoever on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest and costs, the sheriff or coroner (as the case may be) shall take a separate bond with sufficient security, from the buyer or buyers, for the payment of such excess or surplus to the debtor, with legal interest at the end of twelve months, from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid; and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed, in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution.

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities.

27. The court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made, but in the presence of at least three of the said persons, except in the cases herein after mentioned: *Provided always*, That in any case where the creditor, his agent or attorney shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the court to be held for the county or corporation within three months after the return day of the said execution, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion, that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or render of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter security be given. There shall be paid by the creditor, his agent, attorney or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three fourths of its real value, and that the security taken was suf-





ficient; and such certificate shall be returned with the execution by the sheriff, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "that he will truly and impartially execute the trust reposed in him by this act."

28. Where any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods, of the obligor or obligors to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors.

Assignors of bonds given in pursuance of this act, responsible if the obligors are insufficient.

29. Where any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs, for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed, in the case of goods taken in execution upon a writ of *feri facias*, and shall thereupon discharge such debtor out of custody: *Provided always*, That if such property so tendered, shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum* or *feri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum* or *feri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *feri facias* issued in consequence of such return, to avail himself of the privileges of this act.

Debtors in execution may tender goods to the officer.

30. Nothing in this act contained shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due upon any demise, lease or contract whatsoever.

Nothing in this act to extend to distresses for rents.

31. The valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office, for neglect of duty or malfeasance therein; and upon the death, resignation or removal from office of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

Commissioners to be amenable to the county courts.

Vacancies how to be supplied.

32. When the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property, and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said

To be summoned to attend sales.



Method of proceeding when they do not attend.

commissioners attend, they shall after the hour of two o'clock, choose one of the bystanders to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall together, choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts: *Provided, always,* That the said commissioners shall not be summoned upon any *fieri facias*, where the debt, or damages, and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative, shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

In what cases they shall not be summoned, unless the defendants require it.

Valuation of property to be made known to any person desiring it. Sheriff's fee for taking the bond. Commissions.

33. The valuers shall not make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution; the sheriff or coroner, (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents, and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five per centum on the first three hundred dollars, or ten thousand pounds of tobacco, and two per centum upon all sums above that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken.

No principal to be received as security.

34. Upon actual sale of any property under this act, no principal debtor shall become the security.

Surplus money to be paid to the debtor.

35. Wheresoever on a sale for cash or tobacco, made under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security or securities, his or their executors or administrators, shall each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest and costs, levied on an execution.

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

36. When any sheriff, or other officer under any execution, shall receive the whole, or any part of the money or tobacco for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or





attorney, or his executors or administrators; in every such case, the sheriff or other officer, his executors or administrators, shall repay the person or persons against whom such execution issued, his or their executors, administrators or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff, or other officer, his or their executors, or administrators, shall fail or refuse when required to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his and their executors and administrators, and every of them, shall be liable to the like penalty and judgment, in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law, in favor of the plaintiff against the sheriff, for not paying money or tobacco levied on an execution.

37. If any person or persons taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart, or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison, and return at their pleasure.

When prisoners may have liberty of the rules.

38. And for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be of no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, That if any person shall hereafter be taken, or charged in execution, in any suit commenced, or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation, to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison to bring before the said court if sitting, or if not sitting, in case it be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators or agents, at whose suit such prisoner or prisoners shall be in execution. And every such prisoner coming before the said court, judges or justices, as the case shall be, shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say: "*I, A. B. do in the presence of Almighty God, solemnly swear or affirm, (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my knowledge and remembrance, a full, just, true and perfect account and discovery of all the estate, goods and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts, whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me, and that I, or any other person or persons in trust*

Method of insolvent debtor's discharge.

Prisoner's oath.





for me, have not land, money, stock or any other estate, real or personal, in possession, reversion or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly sold, lessened, or otherwise disposed of in trust, or concealed all, or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive, or expect any profit or advantage therefrom; or to defraud or deceive any creditor or creditors to whom I am indebted, in any wise howsoever. So help me God."

Prisoner's discharge.

But creditors may afterwards have executions against his estate.

No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath, unless a *capias* be issued by order of the court.

Debtor's estate how to be disposed of.

His debts and effects how to be recovered.

39. Which schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule, and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices, (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall, or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence: *Provided always*, That notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered.

40. All the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein, as such prisoner hath, and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found; and such sheriff is hereby authorized, empowered and required, within sixty days after the taking the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel and utensils of trade. And if any sheriff or other officer shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner, and by the same persons, as if the said money had been levied by a *fieri facias*.

41. When any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain articles of money or tobacco, due to such prisoner, or of goods, chattels, or estates belonging to him, and in the possession of any other, in that case the clerk of the court, with



whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money, or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels or estate be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his nonattendance, it shall be lawful for the court to enter judgment against every such person for the money, tobacco, goods, chattels or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions, as in other cases, and to dispose of the money, tobacco, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of.

42. *Provided always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels or estates mentioned in the schedule, to be of the property of the prisoner, and in his possession, the sheriff or such prisoner, at any time after, unless barred by any of the acts, limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels and estates as the garnishee is thereby ordered to pay or deliver.

43. Every sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expenses in recovering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court, and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor or creditors, if more than one, in proportion to their demands.

44. Where such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison.

45. *Provided nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees, and such creditor shall and may, notwithstanding his consent to

Sheriff to retain his expenses out of the debtor's estate.

Insolvent debtor's prison fees to be paid by the creditor.

But may afterwards be recovered of the debtors.





the releasing such prisoner, at any time afterwards, sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any.

Prison fees to be paid by the creditor, whose execution is first served.

46. When any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor, at whose suit such debtor was first taken.

Execution duly served, valid, although not directed to any sheriff.

47. An execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff.

*Distringas* in detainue may be superseded as to the specific thing.

48. If a *distringas* issue in detainue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed, for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of inquiry.

Sheriff liable when a replevy or forthcoming bond is quashed, as faulty.

49. If a replevy or forthcoming bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representative.

Penalty on sheriff for failing to return an execution.

50. And whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof: *Be it enacted*, That where any writ of execution, or attachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner or serjeant of a corporation at their discretion, in any sum not exceeding five dollars per month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

Method of proceeding against sheriff failing to pay money levied by executions.

51. If any sheriff, under sheriff, or other officer, shall make return upon any writ of *feri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party, to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment, for not performing a decree in chancery for payment of any sum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her or them to escape, with the consent of such sheriff, under sheriff or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *feri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other



court from whence such writ shall issue, to demand judgment against such sheriff, officer or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *feri facias* or *venditioni exponas*, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution, until the judgment shall be discharged; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion.

52. And whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, That where any execution shall be delivered to the sheriff of any other county, than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her or their agent, for the particular purpose of receiving the money on such execution, and for giving to, and receiving from the sheriff, any notices which may be necessary relating thereto, and payments made, and notices given to such agent, shall be as effectual, as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for nonpayment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him: Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor. But such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing.

Creditors to appoint agents in the counties in which executions are served.

53. After obtaining a final decree for lands, slaves, or money, or things of a specific nature in any court having chancery jurisdiction, the clerk of such court shall upon the request of the party obtaining such decree, issue any writ of execution, either a *feri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste, and be signed by the clerk of the court; and all process so issued, shall be executed and returned to the clerk's office, from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process, issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers, as if the said process had issued upon a judgment obtained at common law. But nothing herein contained, shall prohibit any party from proceeding to carry any order or decree in chancery into exe-

Executions may be issued on decrees in chancery.





cution, in any manner, in which he might avail himself before the passing of this act.

Goods on leased premises not liable to execution until the rent in arrear is paid or tendered.

54. No goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution: *Provided nevertheless*, That such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment; and the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent as the execution money.

Proviso.

Repealing clause.

55. All acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

56. *Provided also*, That all executions issued under any former act, shall go on to be satisfied or replevied as such former act directs; and all twelve months or replevy bonds taken, or which shall be taken under any former act, shall have executions issued thereon, in like manner as is directed in cases of twelve months, or replevy bonds to be taken under this act.

Commencement and duration.

57. This act shall commence and be in force from and after the passing thereof, until the first day of January, one thousand seven hundred and ninety-five.

#### CHAP. 4.—An ACT making provision for support of civil government.

(Passed December 2, 1793.)

Taxes on lands, slaves and other property.

1. *Be it enacted by the general assembly*, That the public taxes for the year one thousand seven hundred and ninety-three, shall be as follows, to wit: On lands for every hundred pounds value, agreeably to the equalizing law, five shillings; for every slave above the age of twelve years, (except such as have been, or shall be exempted by reason of age or infirmity, by the respective county or corporation courts,) one shilling and eight pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season; for all other horses, mules, mares and colts, four pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight pence on every hundred pounds of the rents thereof, to be ascertained by the rent paid by the tenant; and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed, whose judgment as to the yearly rent or value, shall be final. And





the said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor, to declare upon oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called upon, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commissioners of the revenue, or either of them; for every four wheeled riding carriage, except phaetons and stage waggons, six shillings per wheel; for all phaetons and stage waggons, four shillings per wheel; for every other riding carriage, with two wheels, two shillings for each wheel: *Provided*, That no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

2. *And be it further enacted*, That the following tax on process shall be paid: on each writ or declaration in ejectment instituting a suit in the district court, or subpoena in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, *supersedeas* and *habeas corpus cum causa*, or *certiorari*, issued from the general court, a district court, or high court of chancery, one dollar; on each appeal from any county court, or court of hustings, to a district court, one dollar; the said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar; no writ, subpoena, nor any writ of error, *supersedeas*, *certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon, be first paid down. In all appeals, no transcript of the record shall be delivered to the appellant, by the clerk of the court, or forwarded by him to a superior court, before the tax imposed thereon be paid; nor shall any certificate under the seal of any county or corporation court be granted, until the tax thereon shall have first been paid to the clerk keeping such seal. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land office, before the issuing of the patent; for every attestation, protestation, and all other instruments of publication from a notary public, under his seal of office, fifty cents, to be collected and accounted for by the said notary public, and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council before the delivery of such certificate; which last mentioned taxes shall be accounted for and paid in like manner, and with the like commissions for collecting, as is directed in the case of other taxes, imposed by this act.

3. *And be it further enacted*, That all and every other act or acts, imposing any tax whatsoever, shall be, and the same is hereby repealed, except so far as they may relate to the tax or duty on tobacco, and to the collection and recovery of the taxes heretofore due.

4. And whereas it appears, that at the time of passing the act, intitled, "*An act for imposing a public tax for the year one thousand seven hundred and ninety-two*," it was the intention of the legislature, that no tax on a writ of *capias ad respondendum*, issuing from the county or other inferior courts, should be paid, but doubts have since arisen, whether the same was effectually provided for by the



No tax to be paid on process issued from inferior courts since the 31<sup>st</sup> December, 1792.

said act: For removing such doubts, *Be it enacted*, That it shall not be lawful for the clerks of the said counties, or other inferior courts, to demand or receive any tax on such writs, issued since the passage of the last recited act. And where any clerk of a county, or other inferior court, shall have received the tax of fifty cents on any *capias* by him issued since the third day of December, one thousand seven hundred and ninety-two, he shall refund the same to the party paying it. Any law to the contrary notwithstanding.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 5.—An ACT for appropriating the public revenue.

(Passed December 6, 1793.)

Aggregate fund.

1. *Be it enacted by the general assembly*, That the arrearages of the revenue taxes, which by former acts of assembly, were made to constitute the aggregate fund, shall be solely appropriated to the payment of all warrants heretofore issued thereon, of all warrants to be issued by the auditor of public accounts, in the year one thousand seven hundred and ninety-four, for interest on any debt due by this commonwealth, and of all sums of money directed to be paid by the present general assembly, for which no other provision has been made; and all warrants and other facilities which have been heretofore receivable, in discharge of the respective taxes, which constitute the aggregate fund, and all warrants, with the payment of which the aggregate fund is charged by this act, may be paid in discharge of the taxes, which constitute the said fund. And the sheriffs or collectors of the revenue taxes, which constitute the said fund, shall on payment thereof into the public treasury, have credit for the same accordingly.

Monies therein, how to be divided amongst the holders of warrants.

2. The monies which may be paid into the treasury, in discharge of the taxes, which constitute the said fund, and also the money which may be received on sales of tobacco, paid in discharge of the same, or so much thereof as shall be necessary, shall be paid by the treasurer, to the holders of warrants on the said fund, at certain periods. And to the end, that all holders of such warrants, may receive in proportion to their respective claims, the treasurer shall give in the Virginia gazette, six weeks notice of the time when payment is to be made, in order that such warrants may be previously registered, and the money belonging to the said fund, duly apportioned amongst them.

Former appropriations continued.

3. *And be it further enacted*, That all taxes and arrearages of taxes, except those constituting the aggregate fund, shall continue as appropriated by the aforesaid act of the last session of assembly, intituled, "*An act for appropriating the public revenue*," and that all branches of revenue which shall arise to the commonwealth, between the last day of December, one thousand seven hundred and ninety-three, and the first day of January, one thousand seven hundred and ninety-five, shall be appropriated to the support of civil government, and for the contingent charges thereof, and shall also be charged with the payment of all unsatisfied warrants charged on the said taxes and arrearages of taxes, by the aforesaid act of the last session of assembly; of warrants which shall be hereafter issued for expenses attending criminal prosecutions; for slaves condemned and executed; for the state's shares in the Patowmac, James river, and Dismal swamp canal companies; for the hospital for the recep-

Funds for the support of civil government. Charges on the revenue arising between the 31<sup>st</sup> Dec. 1793 and the 1<sup>st</sup> of January 1795.





tion of persons of unsound mind; to the directors of the public buildings; for erecting public buildings at the federal seat of government, on the Patowmac; for the expenses attending the arsenal at the Point of Fork; for all pensions allowed by this commonwealth; and for expenses which may accrue by order of the executive in defence of the western frontier.

4. And if the funds herein appropriated to the payment of the officers of civil government, and of warrants issued by the executive for the contingent purposes thereof; on account of the state's shares in the Patowmac, James river, and Dismal swamp companies; for the hospital for the reception of persons of unsound mind; for erecting the public buildings at the federal seat of government on Patowmac; for all pensions due by this commonwealth; and for expenses which may accrue by order of the executive, in the defence of the western frontier, should not be productive early enough for those purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be sufficient, out of any other funds, and to replace the same as soon as possible: *Provided*, Deficiency in certain funds, to be supplied by borrowing from others. That no money shall be borrowed from the aggregate fund, until the notice directed by this act be given, and the registered warrants thereon fully discharged. Proviso.

5. *And be it further enacted*, That the auditor of public accounts shall grant warrants on the treasury, to the holders of such certificates, for assumed debt, issued by the commissioner of loans of the United States, for the state of Virginia, as bear interest from the first day of April, one thousand seven hundred and ninety-two, for one quarter interest, at the rates expressed in the said certificates, which warrants shall specify that they are on account of a quarter's interest received into the treasury, in trust for the said holders, to wit, from the first day of January, to the first day of April, one thousand seven hundred and ninety-two, and shall be paid out of any monies in the public treasury, except those belonging to the aggregate fund. A quarter's interest on certain certificates for assumed debt, received by the state, to be paid to the holders of such certificates.

6. All acts coming within the purview of this act, shall be and are hereby repealed. Repealing clause.

7. This act shall commence in force from and after the passing thereof. Commencement.

CHAP. 6.—An ACT concerning the taxes due for the year one thousand seven hundred and ninety-two.

(Passed November 23, 1793.)

1. Whereas it is represented to the general assembly, that doubts Preamble. have arisen among the public collectors concerning the right to distrain for the taxes on land, slaves, and other property due for the year one thousand seven hundred and ninety-two, and at what period the said taxes were to be paid into the public treasury:

2. *Be it enacted*, That from and after the passing of this act, it shall be lawful for the several sheriffs and collectors, to distrain for any of the taxes remaining unpaid, which were imposed by an act passed at the last session of the general assembly, intituled, "*An act for imposing a public tax for the year one thousand seven hundred and ninety-two*," and which became due on the thirty-first day of December in the said year. Sheriffs may distrain for the taxes of 1792.

3. And if any sheriff or collector shall fail to pay the said taxes into the public treasury, on or before the first day of February, one When they shall pay them into the treasury.



thousand seven hundred and ninety-four, every such delinquent sheriff or collector shall be liable to judgment against him, on motion to be made by the auditor, or other person appointed for that purpose, at any subsequent term of the general court, or of the district court, holden in the city of Richmond, for the amount of the taxes due, and five per centum damages, together with an interest of five per centum per annum upon the whole amount, until paid, for the use of the commonwealth; and thereupon execution shall issue, provided the party has ten days previous notice of the day, on which such motion is to be made.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 7.—An ACT to amend the act, intituled, “An act for reducing into one the several acts for regulating the inspection of tobacco.”

(Passed December 6, 1793.)

Tobacco brought from upper to lower warehouses for storage, when to be sold by the inspectors.

1. *Be it enacted by the general assembly*, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, “An act for reducing into one the several acts of assembly for the inspection of tobacco.”

Tobacco burnt in the public warehouses to be paid for by the public.

2. *And be it further enacted*, That where any warehouse established by the former or present session of assembly, or which shall be established by any future session of assembly, shall happen to be burnt, the loss sustained thereby, shall be made good and repaid to the several persons injured, by the general assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given: *Provided always*, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for storage, shall be of an older date than six months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Proviso.

Inspectors to receive the full amount of their salaries when the tobacco inspected, if shipped would have produced a sufficiency.

3. *And be it further enacted*, That it shall and may be lawful for the inspectors annually to present to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouses are respectively situated, ascertaining the quantity of tobacco received into such warehouse or warehouses, and also the quantity shipped in each year; and thereupon, if it shall appear to the auditor, that provided all the tobacco so received within the space of the year, had been shipped by the owners, that there would have been a sufficient sum received to have discharged their respective salaries as established by law, then and in such case it shall and may be lawful for the auditor to issue his warrant for the amount of their respective salaries, to be paid out of any money in the public treasury, arising from the surplus on tobacco; any law to the contrary notwithstanding.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.





CHAP. 8.—An ACT to amend the act, intituled, “An act reducing into one the several acts for regulating the inspection of flour and bread.”

(Passed December 4, 1793.)

1. *Be it enacted*, That all casks wherein flour shall be packed, shall be weighed, and the tare marked thereon. And if any person shall put a false or wrong tare on any cask of flour, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents, and the inspector or his deputy or assistant, upon suspicion, or at the request of the purchaser, shall and is hereby required to unpack any cask of flour, and if the cask wherein flour is packed, be falsely tared, the miller or bolter shall pay the charges of unpacking and repacking, over and above the penalties imposed by this act, and by the act, intituled, “*An act reducing into one the several acts for regulating the inspection of flour and bread*,” but otherwise the said charges shall be paid by the inspector or the purchaser, if the trial be made at his request. The penalty hereby imposed, shall and may be recovered, and shall be payable as in the said recited act is directed, of, and concerning the penalties therein imposed.

Casks to be weighed and tare marked thereon.  
Penalty for a false tare.

How recoverable.

2. That part of the penalties which is to go to the use of the commonwealth, shall be paid to the inspector at the place where the offence shall be discovered, who shall annually to the court of his county, held in the month of September, render a fair and just account thereof, upon oath, a copy whereof shall be certified by the said court, and being so certified, shall be transmitted to the auditor of public accounts, by their clerk, who shall debit the said inspector therewith, and the said inspector shall annually pay the amount thereof, after deducting a commission after the rate of six per centum, into the public treasury, on or before the first day of January, in each year; and in case of failure to make such payment, the balance due may be recovered in like manner, as the public taxes are now recoverable from delinquent sheriffs. An account in like manner, shall be rendered by each inspector, at the next September court, held in his county, of all the penalties heretofore paid to him, to be certified and transmitted as aforesaid, and he shall thereafter pay the part belonging to the commonwealth, in like manner, and he shall be entitled to the same commission, and be liable in case of failure of payment, to the same proceedings, as is herein before directed and prescribed in other cases.

That part of the penalties payable to the commonwealth how to be collected and accounted for.

3. Every inspector failing to render the account herein before required, at the time, and in the manner herein before mentioned, shall be incapable of being reappointed to the said office of inspector of flour, by his said county court.

Penalty on inspectors failing to render accounts of penalties received.

CHAP. 9.—An ACT for the more effectual collecting certain arrears of taxes and duties.

(Passed December 10, 1793.)

1. *Be it enacted by the general assembly*, That it shall be lawful for the governor, and he is hereby authorized and required, by and with the advice of council, to appoint a discreet person in each of the brigade districts, as laid off by the act, intituled, “*An act for regulating the militia of this commonwealth*,” who shall reside therein, and whose duty it shall be to attend every sale of property in the district, taken in execution to discharge arrears of taxes and duties due to this commonwealth, prior to the first day of Novem-

Agent to be appointed in each brigade district to attend sales under executions for arrears of taxes, &c.





When they may purchase the property.

When and how they shall sell it, and pay the money into the treasury.

Their commission thereon.

Endorsements to be made by sheriffs of the property purchased by the agents.

Penalty for neglect.

Agents to give bond and security.

Amenable to the executive and removable by them.

Their duty when property under execution is claimed by any other than the debtor.

ber, one thousand seven hundred and ninety. If no person at such sale will bid three-fourths of the value of the property, which shall be ascertained by the commissioners of the county where the property is advertised for sale, or in case no bidders shall attend the same, in either case, it shall be at the discretion of the agent for the commonwealth, to purchase such property, who shall hold the same in trust for the purpose of raising such arrears of taxes, by sale thereof, at such times and places as the agent may think proper, either for specie, commutables or certificates, as the said arrears of taxes could or were to be discharged by law. And the sale of such property shall be made, and information thereof transmitted to the executive within two months after such purchase, and pay the money, commutables or certificates arising therefrom, into the public treasury, within two months after such sale, under the like rules, regulations and proceedings for failure therein, as are directed and prescribed by law for the recovery of taxes from the sheriffs, deducting therefrom fifteen per centum for his trouble, in receiving and paying the same into the public treasury.

2. Whensoever any agent shall purchase property in behalf of the commonwealth, the sheriff or other officer selling the same, shall endorse on the execution, the particular species of property by him sold, to whom, and for what amount, either in specie, commutables or certificates. If any sheriff or other officer, shall fail or neglect to make such endorsement, he shall forfeit and pay twenty-five per centum upon the amount of the execution, to be recovered and applied in like manner, as is directed and prescribed in the case of sheriffs failing to return executions, which issue in behalf of the commonwealth, for public taxes.

3. Every agent appointed as aforesaid, shall, before he enters upon the execution of the duties required of him by this act, give bond to be prepared by the executive, with sufficient security, (to be taken and approved of by the court of his county or the executive) in the penalty of double the amount of the arrearages due within his district, payable to the governor for the use of the commonwealth, with condition for the due and faithful performance of the trust reposed in him, by the act intitled, "*An act for the more effectual collecting certain arrears of taxes,*" and also accounting for and paying all sums of money, tobacco or facilities, which shall or may come to his hands, pursuant to the said recited act. The clerk, or the executive, (as the case may be,) shall transmit without delay, a copy of the said bond to the auditor of public accounts, and also deliver to the agent, a certificate of his having given bond according to law. The executive shall transmit to each agent, a certificate of his appointment, with an endorsement thereon, that such appointment is not to take effect until the person shall have given bond and security according to this act, a copy of which the executive shall also transmit with each appointment. Every agent shall be under the control and direction of the executive, and may be superseded by them for good cause, and another appointed in his stead.

4. If the property taken in execution for the said arrears of taxes, shall on or before the day of sale be claimed by any person, the sheriff shall summon a jury to ascertain the title to the same, and if the estate be found by the jury to be the property of the claimant, and the agent shall have good cause to suspect any fraud



or collusion in obtaining title to such property, he shall cause the same to be represented to the executive, as soon as may be, with the particular circumstances of the case.

5. All executions on judgments obtained in behalf of the commonwealth for the aforesaid arrearages, shall be sent by the auditor to the agent of the proper district, and be issued by the clerk, with the county blank. Every such execution shall be delivered by the agent to the sheriff of that county, where it can be levied, for which he shall take a receipt, which receipt shall be transmitted to the auditor; and at the time of delivery, the agent shall appoint the time and place of sale, and every sheriff shall govern himself accordingly. If the agent of one district, should have occasion to deliver an execution to a sheriff in the district of another agent, to be levied, the agent delivering the execution shall have the power of regulating the sale as in other cases. When a *venditioni exponas* shall be sent to an agent, he shall have power to appoint any place as well within as without his district for the sale of the property.

All executions for arrearages to be sent to them.

Their duty on receiving them.

6. Each agent shall be allowed and paid by the public, the sum of ten per centum in kind on so much of the aforesaid arrearages, as shall be paid into the public treasury, by the sheriffs or collectors of his district; and where the property shall be by him purchased, the slaves and live stock shall be supported by him, and reimbursed out of the sales, in like manner as in the case of an officer serving an execution on the like property, and shall be sold agreeably to the directions of the executive, endorsed on such execution.

Their commission on arrears paid into the treasury.

Slaves, &c. purchased by them how to be supported.

7. An agent may, if he thinks proper, appoint a person from time to time to act for him, for whose conduct he shall be responsible.

May appoint assistants.

8. *And be it further enacted*, That where any such arrears cannot be recovered within this commonwealth, and any such agent shall go out of the state for the purpose of recovering the same from the sheriffs or collectors, or their securities, who may have removed themselves or their property out of this state, the executive shall allow such agent such additional per centum on the arrears which may be thus collected by him, or paid by such sheriffs or collectors, or their securities, into the treasury, as to them shall appear proper.

Executive may allow them extra commission for money recovered from debtors out of the state.

9. *And be it further enacted*, That the powers vested in the agents to be appointed by this act, shall extend to all delinquent inspectors, county lieutenants, clerks of the several courts within this commonwealth, and to all persons indebted to the public of what sort or description soever they may be, whose delinquencies incurred prior to the first day of January, one thousand seven hundred and ninety, except where commissioners are by some special law appointed for that purpose.

To what delinquents their powers extend.

10. This act shall commence in force from the passing thereof. Commencement.

CHAP. 10.—An ACT to repeal in part, "An act for the more effectual collecting certain arrears of taxes and duties."

(Passed December 12, 1793.)

1. *Be it enacted by the general assembly*, That so much of the act of the present session, intituled, "An act for the more effectual collecting certain arrears of taxes and duties," as excludes the agents from demanding and receiving those arrearages of taxes,

Part of the act which excluded the agents from receiving the arrears where commissioners have





been appointed,  
repealed;

With an excep-  
tion.

Commencement.

which are directed to be collected by certain commissioners heretofore appointed for that purpose, shall be, and the same is hereby repealed; except so far as it relates to monies appropriated, otherwise than to the use of the commonwealth.

2. This act shall commence in force from the passing thereof.

CHAP. 11.—An ACT giving further time to the owners of certificates and plats of survey on the eastern waters, to return the same to the register of the land office.

(Passed December 10, 1793.)

Preamble.

1. Whereas it hath been represented that the time allowed by the act of the last assembly, for the owners of surveys on the eastern waters to return their plats and certificates into the land office, will not be sufficient to comply with the purposes thereof, and it is expedient to extend such time:

Further time al-  
lowed for return-  
ing surveys.

2. *Be it therefore enacted by the general assembly*, That the further time of six months, to be computed from the fifteenth day of November, one thousand seven hundred and ninety-three, shall be allowed to the owners of surveys on the eastern waters, for returning all plats and certificates of survey made on locations under the commonwealth's land warrants, prior to the fifteenth day of November, one thousand seven hundred and ninety-two, to the register of the land office, who shall receive the same; any law to the contrary, notwithstanding.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 12.—An ACT for amending the act, intituled, "An act for reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies."

(Passed December 4, 1793.)

Preamble.

1. Whereas that part of the sixteenth section of the act of last session of assembly, intituled, "*An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies*," which empowers the judges of the superior courts (the general court excepted) to make such allowances from time to time to their respective officers as they shall think reasonable, taking into account the time past for which no allowance hath been made by the general assembly, hath been construed to empower the judges of the district courts to make the said allowances:

Part of the act of  
1792 repealed.

2. *Be it therefore enacted*, That the said part of the sixteenth section shall be, and is hereby repealed; except so far as it may relate to the high court of appeals and high court of chancery.

Fees allowed to  
the clerk of the  
high court of chan-  
cery.

3. And whereas it appears that sundry services of the clerk of the high court of chancery, formerly provided for, are not noticed in the said recited act of the last session of assembly: *Be it further enacted*, That it shall and may be lawful for the clerk of the said high court of chancery, in addition to the fees allowed him by the said recited act, to demand, receive, and take the several fees herein after mentioned and allowed for any business by him done since the passage of the said recited act, or hereafter to be done by virtue of his said office, that is to say:



	Cents.
For every writ of <i>supersedeas</i> or <i>scire facias</i> ,	43
For taking bond on issuing a writ of <i>supersedeas</i> , <i>certiorari</i> , or for an appeal, or any other bond,	43
For every other writ whatsoever,	35
For entering the sheriff's return in the rule book,	35
For entering the personal appearance of the plaintiff or de- fendant, or the appearance of an attorney for either party,	18
For entering security for costs for persons out of the country,	35
For every rule entered in the rule book,	35
For a copy of every rule,	18
For every order in court,	18
For a copy of the same,	18
For filing papers for each party,	26
For docketing every cause on the docket (to be charged but once,)	18
For entering every continuance on the docket,	18
For the filing a declaration and every plea or demurrer in any cause to the making up of an issue, directed by the high court of chancery, to be tried at the bar of the said court,	35
For every trial, swearing the jury and witnesses, and record- ing a general verdict,	87
For administering an oath or affirmation in court, except witnesses to a jury,	18

4. And whereas it also appears that some of the fees to public notaries, formerly provided for by law, have been omitted in the act of last session, intituled, "*An act for appointing public notaries:*" *Be it therefore further enacted*, That it shall and may be lawful for every public notary, in addition to the fees allowed him by the said last recited act, to demand, receive, and take the following fees, to wit: for every attestation, protestation, and all other instruments of publication, under his seal of office, the sum of eighty-seven cents, and no more.

To public nota-  
ries.

5. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 13.—An ACT to amend the act, intituled, "An act concerning coin, and for other purposes."

(Passed December 6, 1793.)

1. *Be it enacted by the general assembly*, That so much of the act, intituled, "*An act concerning coin, and for other purposes*," as relates to German gold and cut silver coin, shall be, and is hereby repealed.

Part of the act of  
1792 respecting  
German gold and  
cut silver repeal-  
ed.

2. This act shall commence in force, from and after the first day of March next.

CHAP. 14.—An ACT to amend the act "Concerning grand juries, petit juries and veniremen."

(Passed December 9, 1793.)

1. Whereas, under the existing law, concerning grand juries, petit juries, and veniremen, the grand juries of the district, county and corporation courts, are not in positive and explicit terms directed to be citizens of this state, whereby it hath sometimes happened, that persons not citizens of this commonwealth, have been summoned

Preamble.





and impannelled as grand jurors in the said courts: For remedy whereof,

Grand jurors must be citizens.

2. *Be it enacted*, That hereafter every grand juror, summoned to attend any district, county, or corporation court, or impannelled to serve in the same, shall, in addition to the other requisites prescribed by the said act, "*Concerning grand juries, petit juries and veniremen*," be also a citizen of this commonwealth.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 15.—An ACT to amend the act, intituled, "An act for ascertaining the salaries to the officers of civil government."

(Passed December 6, 1793.)

Part of the act of 1792 repealed.

1. *Be it enacted*, That so much of the act of the last session of the general assembly, intituled, "*An act for ascertaining the salaries of the officers of the civil government*," as relates to the salary of the clerk of the general court, shall be, and the same is hereby repealed.

Salary of the clerk of the general court for *ex officio* services.

2. *And be it further enacted*, That the clerk of the said court shall receive for his *ex officio* services, the sum of two hundred and fifty dollars per annum.

Vacancy during vacation, how to be supplied.

3. In case of a vacancy in the office of clerk of the general court, during vacation, any three judges of the said court (of whom the senior justice shall be one) shall appoint a clerk, who upon taking the oath required by law, before any justice of the peace, shall continue in office, until a clerk shall be appointed by the said court:

Present clerk to continue in office till the next court.

*Provided nevertheless*, That the clerk of the general court now in office, may continue to hold the same until the next meeting of the general court; any thing in any law to the contrary thereof, notwithstanding.

Allowance to the chancellor for employing a clerk.

4. *And be it further enacted*, That the present judge of the high court of chancery, shall during his continuance in office, be allowed a sum, not exceeding two hundred and fifty dollars per annum, for the purpose of employing a clerk.

Commencement.

5. This act shall commence in force from and after the first day of January next.

CHAP. 16.—An ACT to authorize the register of the land office to deliver the original title papers, respecting lands in the state of Kentucky.

(Passed November 11, 1793.)

Register to deliver title papers to lands in Kentucky to the agent of that state.

1. *Be it enacted*, That the register of the land office do deliver to any person or persons whom the executive of this state shall certify to him to be officially appointed by the state of Kentucky, all original papers now being in the land office, respecting the titles of lands within the said state.

Kentucky agent authorized to take copies of records respecting lands in that state, and of the commissioners' books; which shall be attested by the register.

2. *And be it further enacted*, That any person or persons who may be appointed by the state of Kentucky, shall have free access to the records in the land office and to the commissioners' books, and be at full liberty, at the expense of the said state, to make a fair copy or copies of all records that relate to the title for lands within the said state, and of the said commissioners' books, which copy or copies shall be certified and subscribed by the register of the land office, who shall thereunto affix his seal of office: *Provided*, That the state of Kentucky shall be at no expense for the register's certifying and examining the same.





3. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 17.—An ACT concerning certain corporation courts.

(Passed December 12, 1793.)

1. *Be it enacted*, That from and after the passing of this act, it shall be lawful for any corporation courts, whose powers of levying money on the inhabitants thereof are limited by law to any specific and certain sum, to levy on the inhabitants of the said corporations, in addition thereto, so much money in each year, as will enable them to build and keep in repair sufficient jails, pillories and stocks in the said corporations respectively; any thing in any other law to the contrary in any wise, notwithstanding.

Corporation courts empowered to levy money for building jails, pillories, &c.

CHAP. 18.—An ACT to amend an act, intituled, “An act to empower the high sheriffs to proceed in a summary way against their deputies.”

(Passed December 11, 1793.)

1. Whereas the laws heretofore passed have in many instances been found inadequate to indemnify the sheriffs of this commonwealth, against the conduct, and default of their deputies, and in most cases they have been obliged to submit to a recovery first had and obtained against them before they could legally proceed against their deputies, whereby much injury and injustice has arisen to the sheriffs:

Preamble.

*Be it therefore enacted*, That where any fine, amercement, penalty or judgment has been assessed or rendered, or which may be assessed or rendered against any sheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors or administrators, for or on account of any default or misconduct of any deputy of such sheriff, it shall and may be lawful for the court of the county, whereof such sheriff hath been, now is, or shall be sheriff, or for the district court including such county, upon motion to them made by such sheriff, his heirs, executors or administrators, to give judgment against such deputy and his securities, their heirs, executors or administrators, for the full amount of all such fines, amercements, penalties or judgments, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion.

Sheriff's remedy against his deputy, and his executors and securities after judgment against such sheriff.

2. *And be it further enacted*, That where any deputy sheriff heretofore or now in office, or which may hereafter come into office, hath been or shall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by such deputy, by virtue of his office, and for which the principal of such deputy, his heirs, executors or administrators, is or may be chargeable, and shall not immediately pay or deliver the same to the person or persons entitled thereto, it shall and may be lawful for either of the said courts, upon motion to them made by such sheriff, his heirs, executors or administrators, to give the same judgment against such deputy and his securities, their heirs, executors or administrators, as such sheriff, his heirs, executors or administrators, might by motion against him or them, on account of such arrears, misconduct or default, be liable to, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion:

When he may obtain judgment against his deputy, &c. before judgment is rendered against himself.

Proviso.



**Proviso.** *Provided nevertheless, That no deputy sheriff, his heirs, executors or administrators, shall be subject to a motion made by the principal of such deputy, his heirs, executors or administrators, where a recovery has been had, or may be obtained against such deputy sheriff, his heirs, executors or administrators, by any person or persons whatsoever, before such motion.*

**No security to be taken on judgments obtained by sheriffs against their deputies, &c.** 3. *And be it further enacted, That on all executions issuing on judgments obtained by any sheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or administrators, against any deputy heretofore or now in office, or which may hereafter come into office, and his securities, their heirs, executors or administrators, or either of them, the clerk issuing such execution, shall, for the direction of the officer, to whom the same is directed, endorse, that "no security is to be taken," and such officer on levying the same, shall govern himself accordingly.*

**Repealing clause.** 4. *All acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed.*

**Commencement.** 5. *This act shall commence and be in force from and after the passing thereof.*

**CHAP. 19.—An ACT to amend an act reducing into one the several acts to oblige vessels coming from foreign parts to perform quarantine.**

(Passed December 5, 1793.)

**Preamble.** 1. *Whereas by the act, intituled, "An act reducing into one the several acts to oblige vessels coming from foreign parts to perform quarantine," no provision is made to compel persons coming into this commonwealth by land, from places infected with contagious diseases, to perform quarantine: For remedy whereof,*

**Superintendants of quarantine to be appointed for persons coming by land into the state from infected places.** 2. *Be it enacted, That the governor, with advice of the council, shall appoint persons to superintend the performance of quarantine, in such places, and from time to time, as he shall judge necessary; the person so appointed, shall examine all persons coming into this commonwealth by land, from places infected with any contagious diseases, and compel them to perform a quarantine of so many days, and under such regulations, as shall be directed and prescribed by the governor, with advice of council, for the preservation of the health of the citizens of this commonwealth.*

**Executive may exempt owners of vessels from payment of expenses of quarantine.** 3. *And whereas by the said act, the master or owner of a vessel is compelled to defray the expenses attending their vessel, after quarantine is performed, which in some cases is unreasonable: Be it therefore enacted, That the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of such expenses, whenever he shall think it right and just so to do.*

**Vessels which have lately performed it, exempted from expenses.** 4. *And be it further enacted, That the vessels which have lately performed quarantine, be, and they are hereby released from the payment of the charges which accrued thereon.*

**Commencement.** 5. *This act shall commence and be in force from and after the passing thereof.*

**CHAP. 20.—An ACT to fix the time of meeting of the general assembly.**

(Passed December 6, 1793.)

*Be it enacted, That the meeting of the general assembly, shall hereafter be on the second Tuesday in November in every year; any law to the contrary thereof notwithstanding.*





CHAP. 21.—An ACT for selling certain lands belonging to the commonwealth.

(Passed December 2, 1793.)

1. *Be it enacted by the general assembly*, That the governor, with the advice of the council, shall be, and he is hereby empowered to appoint a commissioner for the purpose of selling each of the following tracts of land belonging to the commonwealth, viz: a tract of land in the county of Prince William, formerly the property of Robert Bristow of Great Britain, and one other tract of land in the county of James City, known by the name of the Ship Yard tract.

Commissioners to be appointed to sell certain public lands.

2. The commissioners shall cause the lands they are respectively appointed to sell, to be surveyed and laid off into parcels, if that shall be found advantageous, and shall sell them on the premises by public auction, after giving two months previous notice of the time of sale in the Virginia gazette, and any other newspaper most likely to communicate proper information; the payments to be made as follows, that is to say: one third of the purchase money shall be paid into the public treasury within one month after the day of sale; another third at the expiration of one year; and the remaining third at the expiration of two years from the day of sale. The purchaser on making the first payment as herein directed, and giving bonds for the future payments, together with a mortgage on the property purchased as a security for the said payments, (which bonds and mortgage shall be to the governor for the time being, and to his successors, for the use of the commonwealth) shall be entitled to a deed, conveying to him the land so purchased in fee simple, which deed the governor is hereby authorized and required to execute.

How the sales shall be made.

Payments of the purchase money.

Conveyances to the purchasers.

3. The commissioners shall severally return to the executive immediately after making sale of the lands, an account of all their proceedings, together with copies of all surveys and divisions of lands made pursuant to this act, and they shall for their services be entitled to three per centum on the amount of their respective sales, together with the expenses of the surveys, to be paid by the treasurer, on warrant from the auditor, out of any money in the public treasury.

Commissioners to make a return of their proceedings to the executive.

Their commissions for selling.

4. If any purchaser shall fail to make the first payment as directed, the executive shall direct the commissioner again to sell the lands of the purchaser so failing, after notice as aforesaid, and on the like terms.

The lands to be again sold if the first payments are not made.

5. *And be it further enacted*, That the commissioners so appointed shall have power, and are hereby authorized, to recover by motion in their respective county courts from all persons, their heirs, executors or administrators, who have collected or received any money or tobacco for rent due the commonwealth on the above lands, all the money or tobacco by him or them collected or received, with interest thereon from the time of such collection or receipt; provided ten days previous notice of such motion shall be given to such person or persons, their heirs, executors or administrators: and the respective county courts are hereby authorized to grant judgments in manner aforesaid, whereupon execution shall issue in like manner as on judgments obtained on behalf of the commonwealth by the auditor of public accounts.

The commissioners empowered to receive the rents heretofore collected, from the receivers thereof.

6. This act shall commence and be in force from and after the passing thereof.

Commencement.



CHAP. 22.—An ACT for regulating the police of towns in this commonwealth, and to restrain the practice of negroes going at large.

(Passed December 10, 1793.)

Preamble.

1. Whereas great inconveniences have arisen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to be free, but are in fact slaves: For remedy whereof,

Free negroes and mulattoes residing or employed in certain towns, &c. to be registered and numbered; and each of them annually furnished with a certificate thereof.

2. *Be it enacted by the general assembly*, That from and after the passing of this act, every free negro or mulatto, who resides in, or is employed to labour within the limits of any city, borough or town, shall be registered and numbered in a book to be kept for that purpose by the clerk of the said city, borough or town, which register shall specify his or her age, name, colour and stature, by whom and in what court the said negro or mulatto was emancipated; or that such negro or mulatto was born free. A copy of the said register, signed by the clerk, and attested by one alderman or town magistrate, shall be annually delivered to the said negro or mulatto, for which copy the clerk shall receive twenty-five cents, to be paid by the person receiving the same.

Penalty for employing them without.

3. Any person harbouring or employing any negro or mulatto, who has not a certified copy of the said register, shall forfeit and pay for each offence five dollars to the owner of such negro or mulatto, and if there be no owner, to the informer, to be recovered by warrant before any alderman or magistrate, and shall be moreover liable to an action for damages at the suit of the party grieved.

Magistrates to commit those who neglect to procure such certificates.

4. *And be it further enacted*, That in case any negro or mulatto, who resides in or is employed to labour, in any city, borough or town, shall neglect to procure such certificate, it shall be lawful for any alderman or magistrate, to commit to jail such negro or mulatto, there to remain till such copy is produced and the jailor's fees paid.

Free negroes and mulattoes in the country not to go at large or hire themselves without being registered, &c.

5. And for the prevention of free negroes and mulattoes going at large in the several counties of this commonwealth, *Be it further enacted*, That no free negro or mulatto shall be allowed to go at large or hire himself or herself to labour in any county, without having his or her certificate registered in the clerk's office of the county wherein he or she resides, and having a certified copy of the said certificate. For registering and granting such certificate, the clerk shall be allowed twenty-five cents.

Penalty for employing them without.

6. Any person employing or harbouring any negro or mulatto, coming within the purview of this act, shall forfeit and pay for each offence five dollars, to the use of the informer, to be recovered by a warrant before a justice of the peace; and shall be moreover liable to an action for damages at the suit of the party grieved.

To renew their certificates once in three years.

7. Every such free negro or mulatto, shall once in every three years, obtain a new certificate, under the same rules and regulations, as are prescribed for obtaining the first.

Or may be committed to jail.

8. And in case any negro or mulatto, who resides in or is employed to labour in any county, shall neglect to procure such certificate, it shall be lawful for any magistrate in the said county to commit to jail such negro or mulatto, there to remain till such certificate is produced and the jailor's fees paid.

Commencement.

9. This act shall commence and be in force from and after the first day of January next.





CHAP. 23.—An ACT to prevent the migration of free negroes and mulattoes into this commonwealth.

(Passed December 12, 1793.)

1. *Be it enacted*, That it shall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who shall come into this commonwealth, contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken; which justice is hereby authorized to examine, send and remove every such free negro or mulatto out of this commonwealth, into that state or island from whence it shall appear he or she last came; and for this purpose, the sheriff or other officer, and other persons, may by such justice be employed within the commonwealth, upon the same terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who shall come or be brought into this commonwealth by water from any country, state or island, may and shall be exported to the place from whence he or she came, or was brought, and the charges attending the same shall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

How they may be apprehended and sent out of the state.

2. Every master of a vessel, or other person who shall bring into this commonwealth by water or by land, in any vessel, boat, land carriage or otherwise, any free negro or mulatto, shall forfeit and pay for every such person so brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the person who shall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every such case shall be ruled to give special bail.

Penalty for bringing them into the state.

3. This act shall not extend to masters of vessels bringing into this state any free negro or mulatto employed on board and belonging to such vessel, and who shall therewith depart, nor to any person travelling into this state, having any free negro or mulatto as a servant.

Exception.

4. *And be it further enacted*, That in case any slave shall be brought or come into this state from Africa or the West India islands, directly or indirectly, upon information thereof given to any justice of the peace, it shall be his duty to cause such slave to be apprehended immediately and transported out of this commonwealth, and the expense attending such transportation, shall be paid by the person importing such slave, recoverable in the name of the justice directing such slave to be transported, by warrant before a single magistrate.

Slaves brought from Africa or the West India islands to be sent out of the state.

5. This act shall commence and be in force from and after the first day of January next.

Commencement.

CHAP. 24.—An ACT for regulating inland navigation on Patowmac river, above tide water.

(Passed December 9, 1793.)

1. *Be it enacted by the general assembly*, That every person or persons keeping a boat for the purpose of transporting for hire, upon those parts of the river Patowmac, above tide water, from one place to another, tobacco, flour, wheat, corn or any other articles produced from the earth, or goods, wares, merchandize, or manufactures of any kind, shall apply to the court of the county, in

Owners of boats to obtain licenses from the county courts.





To give bond and security.

which he or they reside, for a license to do so, and the said court is hereby authorized to grant the same, describing therein the name of the owner or owners thereof, and the place of their residence, and its number, and taking bond from him or them with approved security, in the penalty of one hundred dollars, for the keeping the said boat in the manner and condition prescribed by law, at all times when it shall be employed as aforesaid, for hire in transportation of any of the articles aforesaid.

Penalty for transporting for hire, tobacco, &c. without a license.

2. It shall not be lawful for any person to carry, or suffer to be carried with his privity, for money or other valuable consideration, in any boat, wholly or partly belonging to him, from one place to another, upon the river aforesaid, or any branch thereof, above tide water, any tobacco, flour, wheat, corn, or any other articles produced from the earth, or any goods, wares, merchandize, or manufactures, without having a license for the said boat according to law; and whosoever shall act contrary hereto, shall forfeit and pay the sum of twenty dollars for every such offence, to be recovered by action of debt or information in any court of record; one moiety to the use of the informer, and the other to the use of the commonwealth; and moreover shall be liable to an action on the case to any person injured thereby.

How the licensed boats shall be fitted up.

3. Every boat intended to be employed as aforesaid, shall be well ceiled with strong plank, and sufficiently high to prevent the water in the bottom from damaging any part of the cargo, and shall be furnished with a tarpaulin cover, stretched over hoops in the manner of waggon covers, sufficient for defending the weather, and also with a hand-pump, and shall have a plank footway upon each side of the boat, either on the outer or inside thereof, as the owner shall find most convenient, and shall be numbered, and no license shall be granted in any case, unless it be proven to the court, that the boat is ceiled, fitted, furnished and numbered, as herein before directed.

Purchasers of such boats to return the licenses and take out others.

4. Whenever a boat, licensed as aforesaid, shall be sold or transferred, the license shall be returned within two months thereafter, to the court from whence it issued, and the same shall be cancelled, and a new license granted to the purchaser or transferee in the manner and upon the terms herein before directed.

Clerk's fee for a license.

5. The clerk shall and may demand and receive for each license, a fee of one dollar.

Commencement.

6. This act shall commence and be in force from and after the first day of July next.

CHAP. 25.—An ACT to appoint commissioners to examine Slate river, and report to the next general assembly.

(Passed November 5, 1793.)

Commissioners.

1. *Be it enacted by the general assembly, That John Moseley, Thomas Moseley, William Perkins, junior, Benjamin Tindal, Valentine Scruggs, Boaz Ford, Isaac Sallee, James Wilson, and Edmund Glover, gentlemen, or a majority of them, shall, and they are hereby required, to examine the natural and artificial obstructions to the navigation of Slate river, in the county of Buckingham, whether it is practicable to make the same navigable, and to report their proceedings, with their opinion thereupon, to the next assembly.*

Their duty.

Commencement.

2. This act shall commence in force from the passing thereof.



CHAP. 26.—An ACT to amend the act, intituled, "An act to amend the act, intituled, 'An act for clearing Roanoke river.'"

(Passed November 14, 1793.)

1. *Be it enacted by the general assembly*, That Thomas Tunstall, George Terry, Mark Alexander, Tignal Jones, John Williams, William Harrison, John Briscoe, Robert Harrison, George Penn, Charles Foster, John Redd, Joseph Martin, Edward Henry, John Staples, William Banks, Samuel Clark, John Waller, and Thomas Fearn, gentlemen, shall be, and they are hereby constituted trustees, in addition to those already appointed by the act, intituled, "*An act to amend the act, intituled, 'an act for clearing Roanoke river.'*" The trustees hereby appointed, shall have the same powers as if they had been particularly named in the said recited act.

Additional trustees appointed.

2. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 27.—An ACT to repeal in part, "An act concerning the Patowmac company, and for other purposes."

(Passed November 23, 1793.)

1. *Be it enacted*, That so much of the act of general assembly, passed in the year one thousand seven hundred and eighty-seven, intituled, "*An act giving a more speedy remedy against delinquent subscribers to the Patowmac and James river companies*," as relates to the Patowmac company, shall be, and is hereby repealed; and so much of the act of general assembly, intituled, "*An act for opening and extending the navigation of Patowmac river*," as directed the sale of the shares of delinquent subscribers, shall be, and remain in full force and effect.

The company authorized to sell shares of delinquent subscribers.

2. *And be it further enacted*, That the time for completing the navigation of Patowmac river, between the great falls and the head, shall be, and is hereby further extended until the first day of January, one thousand seven hundred and ninety-five, and that no privilege or advantage granted by law shall be forfeited or lost, in case the navigation aforesaid shall be finished within the time hereby limited; any thing in any act to the contrary thereof, notwithstanding.

Further time allowed for completing the navigation.

3. *And be it further enacted*, That the several tolls made payable by the act of general assembly, intituled, "*An act for opening and extending the navigation of Patowmac river at Pain's falls*," shall, instead thereof, be payable at Hook's falls, and the tolls by the said act, made payable at the Great falls, shall be payable at the Great falls, and at Watt's branch, in such proportion as shall be directed by the president and directors of the Patowmac company; and that the tolls by the said act made payable at the mouth of the South branch, shall be, and are hereby made payable at some convenient place between the mouths of Great Cacapon and Conigocheague, to be appointed by the president and directors of the Patowmac company; any thing in any former act or acts of assembly to the contrary, notwithstanding.

Where the tolls shall be payable.

4. *Provided always*, That this act, and every part thereof, shall be, and the same is hereby suspended, until the legislature of the state of Maryland shall pass a law or laws to the like effect.

This act suspended until a similar one is passed in Maryland.





CHAP. 23.—An ACT giving further time to the James river company to compleat the navigation thereof.

(Passed November 14, 1793.)

Further time of six years allowed for completing the navigation.

1. *Be it enacted by the general assembly*, That the further time of six years from and after the period mentioned in and by an act of assembly, passed in the year one thousand seven hundred and eighty-four, intituled, "*An act for clearing and improving the navigation of James river*," shall be, and is hereby allowed the James river company to compleat the said work; any thing in the said recited act to the contrary, notwithstanding.

Commencement.

2. This act shall commence in force from the passing thereof.

CHAP. 29.—An ACT for clearing and extending the navigation of the Monongahela and West Fork rivers.

(Passed December 5, 1793.)

Preamble.

1. Whereas it is represented to this present general assembly, that the clearing, improving, and extending the navigation of Monongahela and West Fork rivers, in the counties of Monongalia and Harrison, will be of public utility :

Trustees appointed to receive subscriptions.

2. *Be it therefore enacted*, That George Jackson, William Barkley, Isaac Davidson, Benjamin Coplin, Benjamin Robinson, Benjamin Wilson, Alexander Holden, Henry Deering, Benjamin Reader, John Stealey, Peregrine Foster, Benjamin Hixson, and John Prunty, gentlemen, shall be, and they are hereby constituted and appointed trustees, for clearing, improving and extending the navigation of the said Monongahela river from the Pennsylvania line, to the mouth of the West Fork river, and from thence up the West Fork river, as far as they shall think it necessary; and for that purpose, they are hereby authorized to take and receive subscriptions.

How the subscriptions may be recovered.

3. If any person or persons shall neglect or refuse to pay the several sums of money by them respectively subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same, in the name of trustees for the time being, by warrant before a single magistrate, where the subscription shall not exceed five dollars, and where it shall exceed that sum, by motion in the court of the county where such subscriber or subscribers may reside, on giving the party so refusing ten days previous notice of such motion.

Powers and duties of the trustees.

4. The said trustees, or a majority of them, shall, as soon as may be, proceed to view the said rivers, and ascertain as nearly as they can, the highest part of the said West Fork capable of navigation, and have power to contract and agree with any person or persons for clearing and improving the navigation of the rivers aforesaid, in such manner as they or a majority of them, shall judge most proper, and to remove all obstructions which shall in any wise injure the navigation of the said rivers, or prevent the passage of fish.

Receivers to be appointed,

5. *And be it further enacted*, That the said trustees or a majority of them, shall, as often as they may think proper, nominate and appoint one or more person or persons, willing to undertake the same, to be receiver or receivers of all monies subscribed by virtue of this act, and the person or persons so appointed, shall, in the court of Monongalia, or Harrison county, give bond with sufficient security, in a reasonable penalty, payable to the said trustees, and their successors, for the time being, with condition that he or they, his or their heirs, executors or administrators, shall and will at all

To give bond and security.



times when required, truly and faithfully account for all such sums of money as shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said trustees, or a majority of them, shall order and direct. If the receiver or receivers shall neglect or refuse to pay the money as ordered and directed by the trustees, or so much thereof as shall come to his or their hands, the party entitled to receive the same by virtue of such order, shall and may recover the money in like manner as is herein before directed and prescribed in the case of persons refusing or neglecting to pay their subscriptions.

Mode of proceeding against them for failing to pay the money received.

6. Every person who shall erect any dam across the said Monongahela or West Fork river, shall, at the time of making the same, erect a slope in or through the said dam, in such manner as shall admit the easy passage of fish; and also erect a sufficient lock or locks at such dam, for the convenient passage of canoes, batteaus, and flat bottomed boats, at least twelve feet wide, and keep the same in good repair; and if the owner of any dam shall neglect to erect such sufficient slope or locks as aforesaid, it shall be deemed a nuisance, and any person may lawfully throw down and destroy such dam. If the owner of any dam, on either of the said rivers, shall fail to keep any lock so erected in good and sufficient repair, or fail to cause due attendance to be given thereat for the dispatch of vessels navigating the said rivers, he or they so offending, shall forfeit and pay the sum of forty dollars for every such failure; to be recovered in the name of the trustees, by action of debt or information, in the court of the county where the owner or proprietor resides, and applied to the purposes of this act.

Owners of mills to erect slopes in their dams, and locks for the passage of boats.

Penalties for neglect.

7. In case of the death, resignation, or other legal disability of any of the said trustees, it shall be lawful for those remaining to supply such vacancy; and the person or persons so elected, shall have the same power as if they had been named in this act.

Vacancies in the trustees how to be supplied.

8. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 30.—An ACT to amend the act, intituled, "An act for opening and extending the navigation of Pamunkey river."

(Passed December 6, 1793.)

1. *Be it enacted by the general assembly*, That the following gentlemen be added to the trustees appointed by the act, intituled, "*An act for opening and extending the navigation of Pamunkey river*," to wit: Christopher Tompkins, William Winston, jun., Nelson Berkeley, Richard Darracott, Paul Woolfolk, James Doswell, William Harris, James Oliver, Richard Taylor, Thomas Taylor, Liston Temple, Jesse Hargrave, Ralph Wormeley and John Temple.

Additional trustees appointed.

2. The said trustees, with those appointed by the said recited act, and their successors, shall be, and they are hereby declared to be incorporated by the name and title of the Pamunkey trustees, and may sue and be sued as such. In case of the death removal, resignation, refusal or incapacity of any of the said trustees, vacancies shall be filled as directed by the said recited act. Any seven of the said trustees, or their successors, shall be a board sufficient to act.

Trustees incorporated.

Vacancies how to be filled.

How many shall constitute a board.

3. All suits by or against the said trustees, shall be in the names of them and their successors; nor shall any suit abate on the going

Rule respecting suits by or against them.





out of office of any trustee or trustees, by death, resignation, or otherwise, but shall proceed for the benefit of the trust, or party suing to judgment and execution, as if no change had taken place.

Subscriptions to be received.

4. The said trustees shall have power to direct subscriptions to be made for so many shares, at the rate of forty shillings for each share as they shall deem adequate to the purposes of the said recited act.

Penalty for erecting any hedge or stop in the river.

5. *And be it further enacted*, That if any landholder on the said river, being resident thereon, if not, the tenant or overseer shall make or erect, or suffer it to be done, or shall aid or assist in making or erecting any such hedge or stop, at any time after the navigation of the said river hath become practicable, every such landholder, tenant or overseer, shall for every such offence, forfeit and pay the sum of one hundred pounds; to be recovered with costs, by bill, plaint or information, in any court of record, in the names of the trustees and their successors, for the use of those entitled to the tolls in the said recited act, mentioned at the time of the recovery.

Penalties for felling trees into the river recoverable by the trustees only.

6. *And be it further enacted*, That no person or persons, except the said trustees and their successors, shall be permitted to sue for the penalty by the said recited act inflicted for felling any tree into the said river, or suffering it to be done, but that the said trustees may also sue for and recover the said penalties for the use of those entitled to the tolls in manner aforesaid.

Trustees to appoint a clerk.

7. *And be it further enacted*, That the said trustees and their successors shall be permitted to appoint a clerk to keep a fair record of their proceedings, which said proceedings at the end of every meeting, shall be signed by the members present, and attested by the clerk, and shall be admitted as evidence in any controversy between the trustees and those interested in the shares, or between the latter and themselves.

Repealing clause.

8. So much of the said recited act, and all other acts as is contrary to this act, shall be, and is hereby repealed.

Commencement.

9. This act shall commence and be in force from and after the passage thereof.

#### CHAP. 31.—An ACT for opening and clearing the navigation of Rappahannock river.

(Passed December 11, 1793.)

Preamble.

1. Whereas the clearing and extending the navigation of Rappahannock river, from the most convenient place on tide water upwards to the highest parts practicable on the main branch and other branches thereof, will be of great public utility, and many persons are willing to subscribe large sums of money to effect so laudable and beneficial a work; and it is just and proper that they, their heirs and assigns, should be empowered to receive reasonable tolls in satisfaction for the money advanced by them in carrying the work into execution, and for the risk they run. And whereas it may be necessary to cut canals and erect locks or other works on the sides of the said river and its branches:

Books to be opened for receiving subscriptions.

2. *Be it enacted by the general assembly*, That it shall and may be lawful to open books in the town of Fredericksburg, in the town of Stevensburg, in the town of Falmouth, in the town of Fairfax, at the house of Lawrence Taliaferro in the county of Orange, and at the house of Robert Beverley, jun., in the county





of Culpeper, for receiving and entering subscriptions to the amount of one hundred thousand dollars, for the said undertaking under the management of Fontaine Maury and William Glassell, in the town of Fredericksburg, of Robert Brooke Voss and Horace Buckner, in the town of Stevensburg, of Daniel Triplett and Robert Dunbar, in the town of Falmouth, of John Jameson and Philip Rootes Thompson, in the town of Fairfax, of Lawrence Taliaferro and Benjamin Johnston, at the house of the said Lawrence Taliaferro, and of Robert Beverley, junior, and Birkett Davenport, at the house of the said Robert Beverley, junior, which subscriptions shall be made personally or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver or in gold coin of the same value. That the said books shall be opened for receiving subscriptions on the twentieth day of January next, and continue open until the first day of October next, inclusive; and on the sixth day of the said month of October, there shall be a general meeting of the subscribers at the town of Fredericksburg, of which meeting notice shall be given by the said managers, or any three of them, in the Virginia gazette, and the Virginia Herald, at least one month next before the said meeting. And such meeting shall and may be continued from day to day, until the business is finished. The acting managers at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept containing the state of the subscriptions, and if one half of the capital sum aforesaid, should upon examination appear not to have been subscribed, then the said managers at the said meeting, are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each shall be made out and returned by the said managers, or any four or more of them under their hands into the Fredericksburg district court, to be there recorded.

First meeting of the subscribers.

Books of subscription to be laid before them, and additional subscriptions to be received if one half the capital be not then subscribed.

List of subscribers to be recorded.

3. And in case more than one hundred thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said managers, or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share until the sum is reduced to the capital aforesaid of one hundred thousand dollars, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums, to determine the number in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots to be drawn to determine the subscribers, who are to be excluded to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid; and the said capital sum shall be reckoned and divided into one thousand shares of one hundred dollars each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise.

How the subscriptions shall be reduced to the capital if they exceed it.

4. *Provided*, That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act, shall be void; and in case one half, and less than the whole of the said

Subscriptions to be void unless half the capital be subscribed.



If one half be subscribed, other subscriptions to be received to make up the capital.

Subscribers to be a body corporate.

President and directors to be chosen.

How the votes shall be counted at general meetings.

President and directors to contract for cutting canals, making locks, &c.

To appoint treasurer and other officers.

Compensation for their trouble.

Treasurer to give bond and security.

capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered, in whole shares aforesaid, until the deficiency shall be made up; a certificate of which additional subscriptions shall be made under the hands of the president and directors, or a majority of them for the time being, and returned to and recorded in the Fredericksburg district court as aforesaid.

5. *And be it enacted*, That in case one half of the said capital, or a greater sum shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a company by the name of the "Rappahannock Company," and may sue, and be sued as such; and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and four directors, for conducting the said undertaking, and managing all the said company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit.

6. And in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said company; and any proprietor by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her, at any general meeting.

7. The said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority, to agree with any person or persons, on behalf of the said company, to cut such canals and erect such locks, and perform such other works as they shall judge necessary for opening, extending, and improving the navigation of the said river above tide water, to the highest part thereof, and its branches, to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner, as they shall think fit; and out of the money arising from the subscriptions, and the tolls and other aids herein after given, to pay for the same, and to repair and keep in order, the said canals, locks and other works necessary thereto, and to defray all incidental charges, and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and to settle and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business and concerns of the said company in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers be determined.

8. *Provided always*, That the treasurer shall give bond in such penalty, and with such security, as the said president and directors, or a majority of them shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed three pounds in the hundred, for the disbursements by him made; and that no officer in the said





company shall have any vote in the passing or settlement of his own account.

9. The said president and directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion the proprietors shall advance and pay off the sums subscribed; which orders shall be advertised at least one month in the Virginia Herald, or other Fredericksburg newspaper; and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited into the hands of the treasurer, to be by him disbursed and paid out as the president and directors, or a majority of them, shall order and direct. And if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same shall be so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the newspapers aforesaid, and after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance by action of debt, or on the case; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the said sale and conveyance had been made by the original proprietor.

President and directors empowered to require payment of the subscriptions.

And may sue the subscribers.

10. And to continue the succession of the said president and directors, and to keep up the same number, *Be it enacted*, That from time to time, upon the expiration of the said term, for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation or incapacity of the president, or any of the said directors, shall and may, in the manner aforesaid, elect any other person or persons to be president and directors, in the room of him or them so dying, removing or resigning; and may at any of their general meetings, remove the president, or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted. Every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

Succession of the president and directors, how to be continued.

How they may be removed from office.

11. The presence of proprietors holding two hundred and sixty shares at the least, shall be necessary to constitute a general meeting; and that there be a general meeting of proprietors on the first Monday of October in every year, at such convenient town as shall be from time to time appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting from day to day till a

General meetings of the company.



Dividends of the profits.

general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished, to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings; and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the neat profits arising from the tolls hereby granted, shall be ordered and made, to and among all the proprietors of the said company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company at any convenient town, giving at least one month's previous notice in either of the newspapers aforesaid, which meeting may be adjourned and continued as aforesaid.

Canals, works and profits vested in the company, and exempted from taxes, &c.

12. That for and in consideration of the expenses the said proprietors will be at, not only in the cutting the said canals, erecting locks and other works, for opening the different falls of the said river and its branches, and improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works, with all their profits, shall be, and the same are hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition or assessment whatever; and that it shall and may be lawful for the said president and directors, at all times forever hereafter, to demand and receive, at the most convenient places below the forks of the said river, and every of these places separately, for all commodities transported through either of them respectively, tolls according to the following table or rates, to wit:

Tolls.		Dolls. Cents.	
	Every pipe or hogshead of wine containing more than sixty-five gallons,	0	62
	Every hogshead of rum or other spirits,	0	50
	Every hogshead of tobacco,	0	42
	Every cask between sixty-five and thirty-five gallons, half of a pipe or hogshead; barrels, one fourth part; and smaller casks or kegs, in proportion, according to the quality and quantity of their contents of wine or spirits.		
	For casks of linseed oil, the same as spirits.		
	Every bushel of wheat, peas, beans, or flax seed,	0	2
	Every bushel of Indian corn, or other grain, or salt,	0	1
	Every barrel of pork,	0	21
	Every barrel of beef,	0	14
	Every barrel of flour,	0	11
	Every ton of hemp, flax, pot-ash, bar or manufactured iron,	1	4
	Every ton of pig iron or castings,	0	35





249  
1251

Dolls. Cents.

Every ton of copper, lead, or other ore, other than iron ore,	0	83
Every hundred bushels of lime,	0	17
Every chaldron of coals,	0	53
Every hundred pipe staves,	0	17
Every hundred hogshhead staves, or pipe or hogshhead heading,	0	8
Every hundred barrel staves or barrel heading,	0	5
Every hundred cubic feet of plank or scantling,	0	3
Every hundred cubic feet of other timber,	0	19
Every gross hundred weight of all other commodities or packages,	0	5
Every boat or vessel which has not commodities on board to yield so much, (provided that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repass toll free,)	1	4

which tolls may be discharged in foreign gold or silver coin of the present fineness, at the present rates; but if any of the coin aforesaid should hereafter be rendered less valuable than they are at present, either by lessening their weight, or therewith adding a greater quantity of alloy than is in them respectively at present, then so much of any of the said coins, the value of which is so reduced, to be received for the tolls aforesaid, as is equal in value to the said coins in their present state of fineness and weight, shall be payable for the said tolls at their reduced value only. And in case of refusal or neglect to pay the toll at the time of offering to pass through any of the said places, and previous to the vessel's passing through the same, the collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass through without paying the said toll, then the said collectors may seize such vessel wherever found, and sell the same at auction, for ready money, which so far as is necessary, shall be applied towards paying the said toll and all expenses of seizure, and the balance if any, shall be paid to the owner; and the person having the direction of such vessel, shall be liable for the toll if the same is not paid by the sale of such vessel as aforesaid: *Provided*, That the said proprietors, or a majority of them, holding at least five hundred and ten shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them, or to determine that any article may pass free of toll.

In what coin they may be paid.

Payment of them, how to be enforced.

Proprietors holding certain number of shares may lessen the tolls.

13. *And be it enacted*, That the said river and the branches thereof, and the works to be erected thereon in virtue of this act, when compleated, shall forever thereafter, be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, or produce whatsoever, on payment of the tolls imposed by this act; and no other toll or tax whatever, for the use of the water of the said river and the works thereon erected, shall at any time hereafter be imposed.

The river, canals, &c. to be a public highway.

14. And whereas it is necessary for the making of the said canals, locks, and other works, that provision should be made for condemning a quantity of land for the purpose: *Be it enacted*, That it shall and may be lawful for the said president and directors, or a

How the company may acquire a right to land, necessary for the canals, &c.





majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the state, on application to any two justices of the county, in which such land shall lie, the said justices shall issue their warrant under their hands, to the sheriff of their county, to summon a jury of twenty-four inhabitants of his county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the sheriff upon receiving the said warrant, shall forthwith summon the said jury, and when met, provided there be not less than twelve, shall administer an oath or affirmation to every jurymen that shall appear; "*That he will faithfully, justly and impartially value the land, (not exceeding in any case the width of one hundred and fifty feet) and all damages the owner thereof shall sustain by the cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, nor any person grieve for hatred, malice or ill will;*" and the inquisition thereupon taken shall be signed by the sheriff, and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded. And upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors to the owner of the land, or his legal representative; and on payment thereof, the said company shall be seized in fee of such land, as if conveyed by the owner thereof, to them and their successors by legal conveyance: *Provided nevertheless*, That if any further damage shall arise to any proprietor of land in consequence of opening such canal, or in erecting such works than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen, by application to, and a warrant from any two justices of the county where the lands lie, to have such further damage valued in like manner, and to receive and recover the same of the president and directors. But nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to mills, forges, or other works or improvements which shall be begun or erected by such proprietor after such first valuation, unless the same damage is wilfully or maliciously done by the said president and directors, or some person by their authority. The said president and directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of any quantity of land, not exceeding one acre, at or near the places of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the state, then such land may be valued, condemned and paid for as aforesaid, for the purpose aforesaid; and the said company shall upon payment of the valuation of the said land, be seized thereof, in fee simple as aforesaid.



15. And whereas some of the places through which it may be necessary to conduct the said canals, may be convenient for erecting mills, forges, or other water works, and the persons possessors of such situation, may design to improve the same, and it is the intention of this act, not to interfere with private property, but for the purpose of improving and perfecting the said navigation: *Be it enacted*, That the water or any part thereof conveyed through any canal or cut made by the said company, shall not be used for any purpose but navigation, unless the consent of the proprietors of land through which the same shall be led, be first had; and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water works aforesaid, to enter into reasonable agreements with the proprietors of such situation, concerning the just proportion of the expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works as aforesaid.

Water of the canals to be used for navigation only, unless the consent of the proprietors of the land be obtained.

16. It shall be lawful for every of the said proprietors, to transfer his share or shares, by deed executed before two witnesses and registered, after proof of the execution thereof, in the said company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided*, That no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred, or held in trust for the use and benefit, or in the name of another, whereby the president and directors, or proprietors of the said company, or any of them, shall or may be challenged, or made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall as to the others of the said company, be to every intent taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued. *And it is also further provided*, That each proprietor who shall be desirous of selling his share or shares, shall first offer the same to such person as shall be hereafter empowered by the general assembly to purchase shares on public account; and it is hereby declared, that such person acting for the commonwealth, shall have the preference in such sales if he will give the same consideration for which the proprietor shall really and *bona fide* sell.

Mode of transferring the shares.

Proviso.

17. And whereas it hath been represented to this general assembly, that sundry persons are willing and desirous, on account of the great public advantages and improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid, on condition the said works are really completed and carried into execution, but do not care to run any risk, or desire to have any property therein: *Be it therefore enacted*, That the said president and directors shall be, and they are hereby empowered to receive and take in subscriptions upon the said condition, and upon the said works being compleated and carried into execution, according to the true intent and meaning of this act, that it shall and may be lawful for the said presi-

Subscriptions to be received on condition the works are compleated.





dent and directors, or a majority of them, in case of refusal or neglect of payment, in the name of the company as aforesaid, to sue for, and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or upon the case, in any court of record in this state.

Capital to be enlarged if necessary.

18. *And be it enacted*, That if the said capital, and the other aids already granted by this act, shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital by the addition of so many more whole shares, as shall be judged by the said proprietors, or a majority of them, holding at least two hundred and sixty shares, present at any general meeting of the said company; and the said president and directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof in the Virginia Herald, or other Fredericksburg newspaper, to open books in the beforementioned places, for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being, shall and are hereby declared to have the preference of all others, for the first thirty days after the books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose. And the said president and directors are hereby required to observe in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the Fredericksburg district court as aforesaid, to be there recorded; and all proprietors of such additional shares shall, and they are hereby declared to be from thence forward, incorporated into the said company.

Conditions on which the tolls are granted.

19. *And it is further enacted*, That the tolls herein before allowed to be demanded and received at the places abovementioned, are granted and shall be paid on condition only that the said Rapahannock company, shall make the river and its branches well capable of being navigated in ordinary seasons, by vessels drawing one foot water at least, from the highest places practicable, to the most convenient place on tide water; and shall at or near the said falls, make such cut or cuts, canal or canals, with sufficient locks if necessary, each of as many feet in length, and as many feet in breadth, as will open a navigation to tide water, in all places, at least sixteen feet wide, except at such locks, and capable of conveying vessels or rafts drawing one foot water at the least into tide water, or shall render such part of the river navigable in the natural course.

When the work is to be begun and completed.

20. *And it is hereby enacted*, That in case the said company shall not begin the said work within five years, after the said company shall be formed, or shall not complete the same within ten years thereafter, then all the interest of the said company, and all preference in their favor, as to the navigation and tolls aforesaid, shall be forfeited and cease: *Provided*, That in case the navigation shall be opened from Germanna on the south, and Norman's ford on the north branch of the river to tide water, before the opening of the river above the places aforesaid, the tolls abovementioned, may be collected until the expiration of seven years, from the time the company shall have been formed.

Proviso.



21. So much of every act and acts within the purview of this Repealing clause, act, shall be and the same is hereby repealed.

22. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 32.—An ACT for altering the time of holding courts in certain counties.

(Passed November 14, 1793.)

1. *Be it enacted by the general assembly*, That the court of Gloucester. quarter session for the county of Gloucester, appointed by law to be held in the month of May, shall from and after the passing of this act, be held on the first Monday in the month of June, annually.

2. That from and after the first day of February next, a court Grayson. for the county of Grayson, shall be held by the justices thereof, on the fourth Tuesday in every month, instead of the third Tuesday; and that a quarterly court for the said county shall be held annually in the month of October, instead of November.

3. And that from and after the first day of January next, a court Patrick. for the county of Patrick, shall be held on the last Thursday in every month, instead of the second Monday; and quarterly courts shall be held for the said county, in the months of February, April, July and October, annually, instead of the months heretofore appointed by law.

4. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 33.—An ACT to amend in part, "An act for increasing the reward for killing of wolves in certain counties."

(Passed November 14, 1793.)

1. Whereas it has been represented to the present general assem- Preamble. bly, that the benefits intended by the act, intituled, "*An act to revive and amend in part, an act for increasing the reward for killing wolves in certain counties*," should be extended to other counties of this commonwealth, besides those in the said act mentioned.

2. *Be it therefore enacted by the general assembly*, That from and after the passage of this act, one half of the like reward for killing wolves as is allowed in the counties mentioned in the said recited act, shall be, and the same is hereby allowed for killing wolves in the counties of Patrick, Henry, Franklin, Bedford and Campbell. Reward for killing wolves in certain counties.

CHAP. 34.—An ACT legalizing certain proceedings of the county court of Madison.

(Passed December 10, 1793.)

1. Whereas it has been represented to this general assembly, that Preamble. doubts have arisen, whether the magistrates appointed to hold the first court for the county of Madison did legally take the oaths prescribed by law, previous to their appointment of a clerk, and proceeding to the other necessary business of the said county, whereby doubts have been entertained of the legality of the first and all other subsequent proceedings of the said court: And whereas numerous suits have been instituted, and various wills and deeds proved and recorded, and other business done in the said county court, which if the original proceedings of the said court are deter-





mined to be invalid, will be null and void, to the great detriment of the innocent persons interested therein: For remedy whereof,

Certain proceedings of the court declared as valid as if the magistrates had been duly qualified.

2. *Be it enacted*, That no suit heretofore instituted in the said court of Madison shall be quashed, dismissed or discontinued for or on account of any irregularity in the proceedings of the magistrates who held the first court for the said county. And all judgments heretofore granted, or hereafter to be granted, and the probate of all wills and deeds heretofore admitted, or hereafter to be admitted, to be proved and recorded in the said court, and all other judicial proceedings of the same, which may be affected by the doubts herein suggested, are hereby declared to be as valid and binding, as if the said magistrates had been qualified according to law.

Commencement.

3. This act shall commence and be in force from the passing thereof.

CHAP. 35.—An ACT to revive and amend an act, intituled, “An act to empower the court of the county of Rockingham to levy a sum of money, for the purposes therein mentioned.”

(Passed November 19, 1793.)

Preamble.

1. Whereas the time limited by the act, intituled, “*An act to empower the court of the county of Rockingham to levy a sum of money for the purposes therein mentioned*,” was not sufficient to accomplish the purposes intended thereby, before the same expired:

The act continued until 1st November, 1794.

2. *Be it therefore enacted by the general assembly*, That the said recited act shall be, and it is hereby revived, and shall continue and be in force, from and after the passing of this act, until the first day of November, one thousand seven hundred and ninety-four.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 36.—An ACT concerning the revaluation of certain lands in the county of Southampton.

(Passed December 4, 1793.)

Preamble.

1. Whereas it is represented, that the lands of Benjamin Ruffin, John Simmons, and Arthur Foster, formerly three of the commissioners of the land tax in the county of Southampton, were valued by the justices appointed for that purpose, considerably higher than lands of the same quality were valued by the said commissioners:

The lands of Benjamin Ruffin, John Simmons, and Arthur Foster, to be revalued

2. *Be it therefore enacted by the general assembly*, That the commissioners of the land tax in the said county of Southampton, shall, and they are hereby required, to go upon the lands of the said Benjamin Ruffin, John Simmons, and Arthur Foster, so valued by the said justices, and view the same, and if they shall be of opinion that the said lands, or any of them were valued higher than other lands of the same quality in the said county, they shall ascertain and fix the value thereof, and charge such difference between the former and their valuation, to the other lands in the said county, in proportion to their respective valuations, as heretofore ascertained, so as thereby to preserve the average or standard of ten shillings per acre, as established by the act for equalizing the land tax.

And the excess of the former valuation to be charged to the other lands in the county.

The commissioners to make out three books of the revaluation.

3. The said commissioners shall make out three books of the valuation of the lands in the said county, as ascertained under this act, entering in one column the owners' names in alphabetical order, the number of acres or lots, the rate at which such land is valued



by the acre, the amount or total value of each tract or lot of land, and the tax payable thereon, which books formed as aforesaid, shall be deemed and taken as the land tax book of the said county, instead of the one made by the commissioners for equalizing the land tax. One of the said books shall remain with the said commissioners, and the others shall be disposed of and delivered as directed by the act, intituled, "*An act to amend the act, intituled, 'An act for ascertaining certain taxes and duties, and for establishing a permanent revenue,'*" under the same penalties for neglect or failure therein, and to be recovered and appropriated in like manner, as is directed and prescribed by the said recited act.

How to be disposed of.

4. The commissioners shall be allowed each, the sum of twelve dollars for their trouble in performing the duties required by this act, to be paid them by the said Benjamin Ruffin, John Simmons, and Arthur Foster, so soon as they shall have performed the business.

Allowance to the Commissioners.

5. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 37.—An ACT authorizing the court of the county of Albemarle to appoint a person or persons to convey titles to certain lands in the said county.

(Passed December 9, 1793.)

1. Whereas it is represented to the general assembly, that Clifton Rhodes, late sheriff of the county of Albemarle, did (in pursuance of an act, intituled, "*An act for ascertaining certain taxes and duties, and for establishing a permanent revenue,'*") sell sundry tracts or parcels of land within the county aforesaid, for the taxes accruing in the years one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, and that the said Clifton Rhodes removed to the state of Kentucky before surveys of the lands, so by him sold were made, and the purchasers thereof have of course been unable to obtain legal titles to the same:

Preamble.

2. *Be it enacted*, That the court of the said county of Albemarle, shall and may nominate and appoint some discreet and fit person or persons, to execute the necessary deed or deeds for conveying the lands sold as aforesaid, within the said county, to the respective purchaser or purchasers thereof; provided satisfactory proof of such purchase be first made to the said court, which said deed or deeds executed by the person or persons appointed under the authority of this act, shall be deemed and considered as valid and binding in law, as if the said Clifton Rhodes had executed the same in his proper person: *Provided always*, That no person appointed by the county court of Albemarle for the purpose aforesaid, shall proceed to act under such appointment, until the same shall have been certified to him by the clerk of the said court, under the seal of his office, and shall have been entered of record therein.

The court to appoint persons to convey certain lands sold by Clifton Rhodes, late sheriff of the county.

3. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 38.—An ACT to revive and amend in part an act, intituled, "*An act granting relief to owners of entries in the county of Henry.*"

(Passed December 9, 1793.)

1. Whereas by an act passed in October, one thousand seven hundred and eighty-nine, intituled, "*An act for supplying the loss of the entry book, and field notes of the surveyor of the county of*"

Preamble.





*Henry,*" it is enacted that the executive appoint commissioners for taking depositions respecting the same, to be subject to the directions of a future assembly: and whereas in conformity to the said act, sundry depositions have been returned to the executive, and by them laid before this assembly:

Surveyor of Patrick to record sundry depositions respecting certain entries where the surveyor's book is lost, and survey the entries.

2. *Be it therefore enacted,* That the surveyor of Patrick county, after application by him made to the executive for the said depositions, which they are hereby requested to furnish him, shall forthwith record the same in the entry books in the said county of Patrick, which shall be as valid as if the said entries or field notes had not been lost; and it shall be lawful for the surveyor of the said county, to survey the entries aforesaid, and return plats thereof to the register of the land office, who is hereby authorized and required to receive the same, and issue grants therefor, in the same manner, and under the like regulations as patents were issued on such entries at the time of the loss of the said entry book: *Provided,* That the same be returned on or before the first day of September next, any law to the contrary notwithstanding; and saving to the claimants of the said land by prior title, the right of contesting the same.

Rights of other persons saved.

Commencement.

3. This act shall commence in force from and after the passing thereof.

CHAP. 39.—An ACT authorizing the court of Randolph county to open a waggon road from the courthouse to the state road at David Manear's on Cheat river.

(Passed December 10, 1793.)

Preamble.

1. Whereas it hath been represented to the present general assembly, that the inhabitants of Randolph county have long laboured under many disadvantages for the want of a waggon road from the courthouse thereof to the state road at David Manear's on Cheat river, which cannot be effected in the ordinary mode prescribed by law:

The road to be cut by the surveyors of certain highways, and the hands under them.

2. *Be it therefore enacted by the general assembly,* That it shall and may be lawful for the court of the said county of Randolph to order the attendance and services of the several surveyors of highways in Tyger's valley, Leading creek and Cheat river, with the hands assigned or that shall be assigned to work thereon, to open and complete a waggon road from Thomas Skidmore's, in Tyger's valley, to David Manear's on Cheat river, where the state road crosses the same.

Penalties on those failing to attend.

3. *And be it further enacted,* That any person failing to comply with the requisitions of this act, shall be subject to the same fines and penalties as are inflicted by the act, intituled, "*An act concerning public roads.*"

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 40.—An ACT for establishing several new ferries.

(Passed November 23, 1793.)

Public ferries established across the west fork of Monongahela river,

1. *Be it enacted by the general assembly,* That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of Moses Sutton, in the county of Harrison, across the west fork of Monongahela river, to the land of John Owen, on the opposite



shore, the price for a man four cents, and for a horse the same; from the land of John Keller, in the county of Hampshire, across Patterson's creek, Patterson's creek, to his land on the opposite shore, the price for a man six cents, and for a horse the same; from the land of John and Staunton, Hix, in the county of Campbell, across Staunton river, to the land of Joseph Eckhols, deceased, on the opposite shore, the price for a man four cents, and for a horse the same; from the commons in the Rivanna, town of Milton, across Rivanna river, to the lands of Thomas Mann Randolph, jun. on the opposite shore, (to be kept by Jacob Oglesby,) the price for a man four cents, and for a horse the same; from the Greenbrier, land of Benjamin Lewis, across Greenbrier river, to the land of John Stuart, on the opposite shore, the price for a man six cents, and for a horse the same; from the land of Christiana Selser, in Cheat, the county of Monongalia, across Cheat river, to her land on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of Thomas Reade Rootes, in the county and Pamunkey rivers, of Hanover, across Pamunkey river, to his land on the opposite shore, the price for a man four cents, and for a horse the same.

2. And for the transportation of wheel carriages, tobacco, cattle, Rates. and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hoghead of tobacco, as for one horse; for every head of neat cattle, as for one horse; and for every sheep, goat, lamb or hog, one fifth part of the ferriage for one horse, and no more.

3. If any ferry keeper shall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party grieved the ferriages demanded or received, and two dollars; to be recovered with costs before a justice of the peace of the county where the offence shall be committed. Penalty for demanding more than the legal rates.

4. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 41.—An ACT for establishing a ferry across Cheat river, in Monongalia county, from the land of John Richards to the lands of Lewis Rogers, on the opposite shore.

(Passed December 5, 1793.)

1. *Be it enacted by the general assembly,* That a ferry shall be established and constantly kept across Cheat river, in the county of Monongalia, from the lands of John Richards to the land of Lewis Rogers, on the opposite shore. Public ferry established across Cheat river.

2. The rates of ferriage at the said ferry shall be the same as are Rates. allowed at other ferries on the said river.

3. This act shall commence and be in force from and after the Commencement. passage thereof.

CHAP. 42.—An ACT for erecting slopes in the mill dams across Banister river.

(Passed December 4, 1793.)

1. Whereas it hath been represented to this present general as- Preamble. sembly, that the passage of fish up Banister river is greatly obstructed by the building of mill dams and stone stops across the same, whereby many of the good citizens on and near the said river are deprived of that benefit which ought to be free to all:





By whom and how the slopes may be built.

2. *Be it therefore enacted*, That it shall be lawful for the courts of the counties of Pittsylvania and Halifax, and they are hereby required, upon the application of any person or persons whatsoever for that purpose, to grant him or them an order for making or building a slope in or over any mill dam lawfully built across the said river; which slope or slopes shall not exceed twenty feet in width, and be so constructed as to admit the free and easy passage of fish, but not to injure the dam nor mill thereby.

Stops for taking fish to be so constructed as to leave part of the bed of the river clear.

3. *And be it further enacted*, That all persons who have or may hereafter build any stop or stops across the said river Banister, for the purpose of taking fish, shall so construct the same as to leave twenty-five feet of the bed of the river clear and unobstructed, under the penalty of fifty dollars; to be recovered by bill, plaint or information before either of the aforesaid courts, to the use of the informer.

Commencement.

4. This act shall commence and be in force from the passing thereof.

CHAP. 43.—An ACT to establish an inspection of tobacco in the county of Halifax.

(Passed November 14, 1793.)

Preamble.

1. Whereas it has been represented to this present general assembly, that it would be of great utility to establish a warehouse for the reception and inspection of tobacco on the land of Joseph Hopson, lying on Dan river, in the county of Halifax:

Inspection established on Hopson's land in Halifax.

2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on the land of the said Joseph Hopson, on Dan river, in the county of Halifax; the proprietor whereof shall build convenient houses at his own expense, to be called and known by the name of Dunkirk warehouse.

Inspectors' salaries.

3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred dollars for their salary.

Manifest to be delivered with each load of tobacco.

4. The inspectors at the said warehouse, upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the batteau or canoe, or owner or driver of the waggon when delivered to the latter, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco when delivered to a waggon, shall be by the driver thereof, delivered with the manifest to the inspectors at any of the warehouses, which now are, or hereafter shall be established in the towns of Petersburg, Manchester or Osborne's, who are hereby required to receive the same, and enter the said tobacco agreeable to the manifest, in books, to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof; and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at each of the said warehouses in the towns of Petersburg, Manchester and Osborne's, shall demand and receive for all tobacco brought to the

Where the tobacco is to be delivered.

Warehouse rent to be paid therefor.



said warehouses by virtue of this act, the same warehouse rent, as is allowed for tobacco reloaded from on board any vessel, and be appropriated as the rents on reloaded tobacco are by law directed.

5. The impost and duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act. The duty how to be collected.

6. So soon as convenient houses for the reception of tobacco shall be built by the said Joseph Hopson, the court of the said county of Halifax, shall recommend fit persons to be commissioned inspectors thereof. No person shall be obliged to receive any notes for tobacco passed at the said warehouse, in discharge of tobacco contracts heretofore entered into. When the inspection shall commence.

7. *Provided always*, That if the quantity of tobacco inspected at the said warehouse, shall not be sufficient to pay the usual charges, and the inspectors' salaries, the deficiency shall not be paid by the public. Deficiency of inspectors' salaries not to be paid by the public.

8. And if the proprietor of the said land shall not within one year after the passing of this act, begin to build the said warehouses, and finish the same within three years, he shall lose the privilege hereby granted. When the warehouses are to be built.

9. This act shall commence and be in force from the passing thereof. Commencement.

CHAP. 44.—An ACT to establish an inspection of tobacco on the lands of William Cannon, in the county of Buckingham.

[Passed November 30, 1793.]

1. Whereas it hath been represented to this present general assembly, that it would be of great utility to establish a warehouse for the reception and inspection of tobacco on the lands of William Cannon, in the county of Buckingham: Preamble.

2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on the lands of the said William Cannon, near the mouth of Bear Garden creek in the said county of Buckingham, the proprietor whereof shall build convenient houses at his own expense, to be called and known by the name of Cannon's warehouse. Inspection established on Cannon's lands in Buckingham.

3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three and one third dollars for their salary. Inspectors' salaries.

4. The inspectors at the said warehouse, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the bateau or canoe, with the marks, number and weight of tobacco, and stamped with the warehouse name; which tobacco with the manifest, shall be delivered to any of the inspectors at the warehouses in the towns of Richmond and Manchester, who are hereby required to receive the same, and enter it agreeable to the said manifest, in books to be by them provided, and kept for that purpose, and grant their receipts for such tobacco to the owners thereof, to be delivered for exportation when required. The inspectors at the last mentioned warehouses are empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, Manifest to be delivered with each load of tobacco.  
Where the tobacco is to be delivered.





and if found to be damaged or embezzled, the same shall not be entered in the books but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco.

Warehouse rent to be paid therefor.

5. The inspectors at each of the warehouses in the said towns of Richmond and Manchester, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same rent as is allowed for tobacco reloaded from on board any vessel, and be appropriated in manner directed by law for the rent or tax on reloaded tobacco.

The duty on tobacco how to be collected.

6. The duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner, as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

When the inspection shall commence.

7. So soon as convenient houses for the reception of tobacco shall be built by the said William Cannon, the court of the said county of Buckingham shall recommend fit persons to be commissioned inspectors thereof. No person shall be obliged to receive any notes for tobacco passed at the said warehouse in discharge of any tobacco contract heretofore entered into.

Deficiency in the inspectors' salaries not to be paid by the public.

8. *Provided always*, That if the quantity of tobacco inspected at the said warehouse, shall not be sufficient to pay the usual charges, and the inspectors' salaries, the deficiency shall not be paid by the public.

Commencement.

9. This act shall commence and be in force from the passing thereof.

#### CHAP. 45.—An ACT to establish an inspection of tobacco in the county of Pittsylvania.

(Passed December 3, 1793.)

Preamble.

1. Whereas it has been represented to this present general assembly, that it would be of great utility to establish a warehouse for the reception and inspection of tobacco on the lands of John Barnett, in the county of Pittsylvania:

Inspection established on Barnett's lands on Dan river.

2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on the lands of the said John Barnett, adjoining Winn's falls, on the south side of Dan river, who shall build convenient houses at his own expense, to be called and known by the name of Danville warehouse.

Inspectors' salaries.

3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred dollars for their salary.

Manifest to be delivered with each load of tobacco.

4. The inspectors at the said warehouse, upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the batteau or canoe, or owner or driver of the waggon, when delivered to the latter, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco, when delivered to a waggon, shall be by the driver thereof delivered with the manifest to the inspectors at any of the warehouses now, or hereafter to be established in the towns of Petersburg, Osborne's or Manchester, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when

Where the tobacco is to be delivered.



required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at each of the said warehouses in the towns of Petersburg, Osborne's and Manchester, shall demand and receive, for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent as is allowed for tobacco reloaded from on board any vessel, and appropriated in the same manner as the tax on reloaded tobacco.

Warehouse rent to be paid therefor.

5. The impost and duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

Duty on tobacco, how to be collected.

6. So soon as convenient houses for the reception of tobacco shall be built by the said John Barnett, the court of the county of Pittsylvania shall recommend fit persons to be commissioned inspectors thereof. No person shall be obliged to receive any notes for tobacco passed at the said warehouses, in the discharge of any tobacco contract heretofore entered into.

When the inspection shall commence.

7. *Provided always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and inspectors' salaries, the deficiency shall not be paid by the public.

Deficiency of inspectors' salaries not to be paid by the public.

8. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 46.—An ACT to establish an inspection of tobacco on the lands of William Dix, in the county of Pittsylvania.

(Passed December 6, 1793.)

1. Whereas it has been represented, that it would be of great utility to establish a warehouse for the reception and inspection of tobacco on the lands of William Dix, in the county of Pittsylvania:

Preamble.

2. *Be it therefore enacted by the general assembly*, That an inspection of tobacco shall be, and the same is hereby established on the lands of the said William Dix, at or near his ferry in the said county of Pittsylvania, who shall build convenient houses at his own expense, to be called and known by the name of Dix's warehouse.

Inspection established on Dix's land in Pittsylvania.

3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred dollars for their salary.

Inspectors' salaries.

4. The inspectors at the said warehouse, upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the bateau or canoe, or owner or driver of a waggon, when delivered to the latter, with the marks, number and weight of tobacco, and stamped with the warehouse name; which tobacco, when delivered to a waggon, shall be by the driver thereof delivered with the manifest to the inspectors at any of the warehouses which now are, or shall be hereafter established in the towns of Petersburg, Manchester or Osborne's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books

Manifest to be delivered with each load of tobacco.





Warehouse rent  
to be paid there-  
for.

Duty on tobacco,  
how to be col-  
lected.

When the inspec-  
tion shall com-  
mence.

Deficiency of in-  
spectors' salaries  
not to be paid by  
the public.

Commencement.

to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof; and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at each of the said warehouses in the towns of Petersburg, Manchester, or Osborne's, shall demand and receive, for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent as is allowed for tobacco reloaded from on board any vessel, and be appropriated in like manner as the tax or rent of such reloaded tobacco is by law directed.

5. The impost and duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

6. So soon as convenient houses for the reception of tobacco shall be built by the said William Dix, the court of the said county of Pittsylvania shall recommend fit persons to be commissioned inspectors thereof. No person shall be obliged to receive any notes for tobacco passed at the said warehouse in discharge of any tobacco contract heretofore entered into.

7. *Provided always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

8. This act shall commence and be in force from the passing thereof.

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CHAP. 47.—An ACT to increase the salaries of the inspectors at Amherst warehouse.

(Passed November 14, 1793.)

Preamble.

1. Whereas it is represented that the salaries allowed to the inspectors of tobacco at Amherst warehouse, in the county of Amherst, are inadequate to their services:

Inspectors' sala-  
ries.

2. *Be it therefore enacted*, That there shall hereafter be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three dollars and thirty-three cents, in lieu of the salaries heretofore allowed by law.

Commencement.

3. This act shall commence and be in force from the passing thereof.

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CHAP. 48.—An ACT to increase the salaries of the inspectors of tobacco, at Horseley's warehouse, in the county of Buckingham.

(Passed November 16, 1793.)

Preamble.

1. Whereas it hath been represented, that the salaries heretofore allowed to the inspectors of tobacco at Horseley's warehouse, in the county of Buckingham, is inadequate to their services:

Inspectors' sala-  
ries.

2. *Be it therefore enacted by the general assembly*, That instead of the allowance heretofore made by law, there shall be allowed and paid annually to each of the inspectors at Horseley's ware-



house, the sum of one hundred and thirty-three dollars and thirty-three cents.

3. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 49.—An ACT to fix and provide for the payment of the salaries of the inspectors at Shockoe warehouse.

(Passed November 16, 1793.)

1. *Be it enacted by the general assembly*, That the inspectors at Shockoe warehouse shall be allowed the sum of two hundred and sixty-six dollars and sixty-six cents each, per annum, to commence from the first day of October, one thousand seven hundred and ninety-two, for their salaries in receiving and inspecting tobacco at the said warehouse, instead of the salaries heretofore allowed by law, and for receiving and delivering tobacco inspected above tide water, to be paid out of the surplus money arising from the duty on inspected tobacco, brought from the inspections on James river, above the falls. Any law to the contrary thereof, notwithstanding.

Inspectors' salaries.

Out of what fund to be paid.

2. This act shall commence and be in force from the passing thereof. Commencement.

CHAP. 50.—An ACT for paying the balance of salaries to the inspectors at Rocky Ridge warehouse.

[Passed November 28, 1793.]

1. *Be it enacted by the general assembly*, That the balance of the salaries due to the inspectors at Rocky Ridge warehouse, in the town of Manchester, arising between the first day of October, one thousand seven hundred and ninety-two, and the first day of October, one thousand seven hundred and ninety-three, shall be paid by the treasurer out of any public money, upon warrants from the auditor of public accounts for that purpose, which shall be in full for their services until the said warehouses are rebuilt.

Balance of salaries due to the inspectors to be paid out of any money in the treasury.

2. This act shall commence and be in force from the passage thereof. Commencement.

CHAP. 51.—An ACT for revesting in William Hepburn and John Dundas, part of the tobacco warehouses in the town of Alexandria.

[Passed November 14, 1793.]

1. Whereas it hath become unnecessary, that all the public warehouses for the reception and inspection of tobacco in the town of Alexandria, should remain appropriated to the public use, and the proprietors thereof have petitioned this general assembly, that part of the said houses may be revested in them: Preamble.

2. *Be it therefore enacted*, That the two warehouses for the reception and inspection of tobacco in the town of Alexandria, situate in Water street, shall be, and they are hereby revested in William Hepburn and John Dundas, their heirs and assigns, until such time as the said houses shall again be wanted for public use, when the said William Hepburn and John Dundas, their heirs and assigns, shall deliver possession of them to the inspectors then appointed in fit and convenient repair.

Two of the warehouses revested in Hepburn and Dundas, until wanted for public use.

3. *Provided nevertheless*, That this act shall not commence or be in force, until such time as all the tobacco now remaining in the said warehouses, shall be from thence discharged according to law: When this act is to commence in force.





*And provided also,* That nothing in this act contained, shall be construed in any manner to affect the right, title, or interest of any person or persons that may have a legal claim to the abovementioned warehouses.

CHAP. 52.—An ACT to discontinue the inspection of tobacco at Falmouth warehouse.

(Passed November 23, 1793.)

Preamble.

1. Whereas it hath been represented, that the warehouse in the town of Falmouth, called Falmouth warehouse, the property of William Richards, is not necessary for the reception and inspection of tobacco :

When the inspection shall be discontinued.

2. *Be it therefore enacted,* That the inspection of tobacco at Falmouth warehouse, shall be, and the same is hereby discontinued, so soon as all the tobacco now remaining in the aforesaid warehouse, shall be by the said William Richards, and at his expense, delivered to the inspectors at Dixon's warehouse, in the county of Stafford, who are hereby authorized to receive the same into the said warehouse, called Dixon's warehouse, and from thence to deliver the said tobacco to the respective proprietors, in like manner as if the same were by them inspected. Any law to the contrary thereof, notwithstanding.

CHAP. 53.—An ACT to discontinue the inspection of tobacco at Dumfries warehouse.

(Passed December 7, 1793.)

Preamble.

1. Whereas it is represented by the petition of Jesse Ewell, proprietor of the Dumfries warehouse, in the town of Dumfries, and county of Prince William, that the said warehouse is not necessary for the reception and inspection of tobacco : And whereas the said petitioner prays the same may be discontinued :

When the inspection shall be discontinued.

2. *Be it therefore enacted,* That the inspection of tobacco at Dumfries warehouse, in the said town of Dumfries, from and after the tenth day of August next, shall be, and the same is hereby discontinued. Any law to the contrary in any wise notwithstanding.

Tobacco therein to be delivered to the inspectors at Quantico warehouse.

3. *And be it further enacted,* That the said Jesse Ewell shall immediately after the said tenth day of August, and at his expense, deliver all tobacco that may be in the warehouse by this act discontinued, to the inspectors of Quantico warehouse, in the town of Dumfries, who are hereby authorized to receive the same into the warehouse called Quantico warehouse, and from thence to deliver the said tobacco to the respective proprietors, in like manner as if the same were by them inspected.

Inspectors' salaries to be paid to them.

4. The inspectors of Dumfries warehouse shall be paid that part of their salaries, that may remain due them, by the treasurer, out of any monies in the treasury, arising from the tax on tobacco, on their presenting a certificate from the inspectors of Quantico warehouse, that the quantity of tobacco removed to the Quantico warehouse, will replace such balance, which amount the Quantico inspectors are hereby directed to pay into the public treasury.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.



CHAP. 54.—An ACT concerning the tobacco destroyed by the burning of Rocky Ridge warehouses.

(Passed December 5, 1793.)

1. Whereas it is represented that a quantity of tobacco has been destroyed by the accidental burning of the public warehouses at Rocky Ridge, in the month of January last, the exact quantity and the names of the proprietors cannot now be ascertained; to the end therefore that a just account thereof may be stated, and the sufferers receive compensation for their losses:

Preamble.

2. *Be it enacted by the general assembly*, That David Patteson, Bernard Markham, Granville Smith, Matthew Cheatham, Thomas Railey, and James Scott, gentlemen, shall be, and they are hereby constituted and appointed commissioners for taking, examining, and stating the accounts, claims and demands of the proprietors of the tobacco destroyed at the warehouse aforesaid; and in stating the said accounts the said commissioners, or any three of them, shall, and they are hereby directed and required, to distinguish the quantity of crop and transfer tobacco separately, and to express therein the value thereof in money at the time the same was destroyed; which accounts the said commissioners, or any three of them, shall return under their hands and seals to the next session of assembly. The said commissioners, or any four of them respectively, are hereby empowered and required to meet at such times and places as they shall think fit (of which time and place public notice shall be given in the Virginia gazette at least four weeks before such meeting) and to examine any person or persons they shall think necessary for their information relating to the said accounts, and to administer an oath, or affirmation (as the case may require) to any person for the better discovering the true quantity of tobacco so destroyed. Every commissioner before he enters upon the execution of this act, shall, before some justice of the peace, take the following oath: "*I, A. B. do swear that I will according to the best of my skill and knowledge, faithfully, impartially, and truly demean myself in taking, examining, and stating the accounts, claims and demands, of the proprietors of the tobacco destroyed in Rocky Ridge warehouses, according to the directions of this act.*"

Commissioners appointed to ascertain claims for the tobacco burnt.

When and where they shall meet.

Their oath.

3. And whereas the inspectors at Rocky Ridge warehouses, at the time the same were burning, took out and delivered to the inspectors at the other warehouses in the town of Manchester, a considerable number of hogsheads of tobacco, most of which now remain in their care: *Be it therefore enacted*, That the inspectors in whose care the same now is, shall give to the inspectors at Rocky Ridge warehouse a receipt therefor, containing the numbers, marks, gross, tare and nett weight of every hogshead or cask of tobacco, and the inspectors shall respectively be thenceforth liable and chargeable for all the tobacco so by them received; but he nor they shall in no wise be answerable for the loss of weight or quality of the tobacco contained in any hogshead or cask for which a receipt was by him or them given. And the inspectors at Rocky Ridge warehouse shall deliver to the inspectors at the other warehouses in the said town of Manchester, in whose care the same may be, a list containing the numbers, marks, gross, tare, and nett weight of every hogshead or cask of tobacco, distinguishing in such list that they have not issued receipts for.

Inspectors at the other warehouses who received tobacco from Rocky Ridge accountable therefor.





## Commencement.

4. This act shall commence in force from and after the passing thereof.

CHAP. 55.—An ACT to establish a town at the Hot springs in the county of Bath.  
(Passed November 6, 1793.)

On whose land the town is to be established.

1. *Be it enacted by the general assembly,* That fifty acres of land, the property of Nathaniel Wilkinson, John Carter Littlepage, and John Oliver, as the same are already laid off into lots with convenient streets at the Hot springs, in the county of Bath, shall be, and they are hereby established a town, by the name of Hot Bath; and Sampson Matthews, Samuel Vance, Thomas Hughart, Charles Cameron, George Poage, John Montgomery, John White, John Lewis, John Baller, Anthony Mustoe, and Samuel Susberry, gentlemen, are hereby constituted trustees thereof.

Trustees.

Their powers.

2. The said trustees, or a majority of them, are empowered to make such rules and orders for the regular building of houses in the said town as to them shall seem best, and to settle and determine all disputes concerning the bounds of the lots.

Privileges of the owners of lots.

3. So soon as the purchasers of lots in the said town shall have built thereon a dwelling house sixteen feet square, with a brick or stone chimney, such purchasers shall then be entitled to, and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

Vacancies in the trustees how to be filled.

4. In case of the death, resignation or removal out of the county of one or more of the trustees of the said town, the vacancy thereby occasioned, shall be supplied by the remaining trustees, and the person or persons so elected, shall have the same power and authority, as if he or they had been particularly named in this act.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 56.—An ACT to establish several towns.

(Passed November 23, 1793.)

Town established on Wardlaw's and M'Chesney's land in Rockbridge.

1. *Be it enacted by the general assembly,* That twenty-four acres of land, the property of Robert Wardlaw and Samuel M'Chesney, in the county of Rockbridge, as the same are already laid off into lots and streets, shall be, and they are hereby vested in William McKee, Charles Campbell, James Houston, Samuel Steel, John Wilson, Samuel Patton, Andrew Finley, and Preston Brown, gentlemen, trustees, and established a town by the name of Brownsburg.

By the name of Brownsburg.  
At Aylett's warehouse in King William.

2. That twenty-five acres of land, the property of Phillip Aylett, lying at Aylett's warehouse, in the county of King William, shall be, and they are hereby vested in William Dandridge Claiborne, Benjamin Temple, John Roane, John Roane, jun., Nathaniel Burwell, William Spiller, Joseph Gwathney, Joseph Hilliard, jun., Reuben Turner, Robert Pollard, Owen Gwathney, James Turner, and Robert Hill, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Philipsburg.

By the name of Philipsburg.  
At Seneca mills in Campbell.

3. That twenty-five acres of land, the property of Micajah Davis, lying at Seneca mills, in the county of Campbell, shall be, and they are hereby vested in John Lynch, Philip Payn, John W. Gilbert, Joseph Stratton, John Ward, Nicholas Cruces, and William Davis, jun., gentlemen, trustees, to be by them, or a majority of



them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Marysville.

4. That twenty-five acres of land, the property of John Barnett, adjoining Winn's falls, on the south side of Dan river, in the county of Pittsylvania, shall be, and they are hereby vested in Thomas Tunstall, Matthew Clay, William Harrison, John Wilson, Thomas Pearne, George Adams, Thomas Worsham, Robert Payne, James Dix, John Southerland, John Call and Thomas Smith, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Danville.

By the name of  
Marysville.  
At Winn's falls in  
Pittsylvania.

5. *Provided always*, That nothing herein contained, shall be construed to vest in the trustees of either of the said towns of Brownsburg, Marysville, and Philipsburg, any lot therein, on which there is a house, or any lot which has been sold by the proprietor thereof, before the passing of this act.

By the name of  
Danville.  
Certain lots in  
Brownsburg, Ma-  
rysville and Phi-  
lipsburg not vested  
in the trustees.

6. The trustees of the said towns, or the major part of them respectively, shall sell the said lots (except as before excepted) at public auction, for the best price that can be had, the time and place of which sales, shall be previously advertised for two months in the Virginia gazette, the purchasers thereof, respectively to hold the same, subject to the condition of building on each lot, a dwelling house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale; and the trustees of the said towns respectively, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sales thereof, to the said Robert Wardlaw, and Samuel McChesney, Philip Aylett, Micajah Davis, and John Barnett, or their respective legal representatives.

Lots in the said  
towns when and  
how to be sold.

7. The trustees of the said towns respectively, or a majority of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to make such rules and orders for the regular building of houses thereon, as to them shall seem most proper.

Powers of the  
trustees.

8. So soon as the purchasers or owners of lots in the said towns respectively, shall have built thereon according to the conditions of their deeds, or the conditions herein expressed, they shall have the same rights, privileges and immunities which the freeholders and inhabitants of other towns, not incorporated, hold and enjoy.

Privileges of the  
owners of lots.

9. If the purchaser of any lot in either of the said towns shall fail to build thereon, according to the condition of his deed, the trustees of the said town, or a majority of them, on giving two months notice, may thereupon enter into such lot, sell the same again, and apply the money arising therefrom in any manner for the benefit of the said town.

Purchasers failing  
to improve their  
lots to forfeit  
them.

10. In case of the death, resignation or removal out of the county of any of the trustees of the said towns respectively, the vacancy thereby occasioned shall be supplied by the remaining trustees or a majority of them; and the persons so chosen shall have the same powers as if they had been named in this act.

Vacancies in the  
trustees how to be  
filled.

11. This act shall commence and be in force from and after the passing thereof.

Commencement.





## CHAP. 57.—An ACT establishing certain towns.

(Passed December 6, 1793.)

Town established  
on Hargrave's land  
in Caroline.

1. *Be it enacted by the general assembly*, That fifteen acres of land, lying at or near the place called and known by the name of Cook's ford, on Pamunkey river, in the county of Caroline, the property of Samuel Hargrave, shall be, and they are hereby vested in Samuel Hargrave, Samuel Temple, John Hoomes, Thomas Rootes, John Minor, John Chiles, Timothy Chandler, Thomas Price, James Doswell, Nelson Berkeley, Jesse Hargrave and William Winston, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Oxford.

By the name of  
Oxford.  
At Todd's ware-  
house in King &  
Queen.

2. That twenty-five acres of land, lying contiguous to Todd's warehouse, on Mattaponi river, in the county of King & Queen, the property of the representatives of John Macon, deceased, by his first wife, shall be, and they are hereby vested in Larkin Smith, Anderson Scott, John W. Semple, William Hill, Philip Pendleton, China Gatewood, William Lyne, senior, William Lyne, junior, Samuel Fauntleroy, Thomas Martin, Joseph Temple, Temple Gwathney, and James Pendleton, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established into a town, by the name of Dunkirk.

By the name of  
Dunkirk.

Lots when and  
how to be sold.

3. So soon as the said lands shall be laid off into lots, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of such sale, being previously advertised four weeks successively in the Virginia gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each, a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale; and to convey the said lots to the purchasers in fee simple, subject to the condition aforesaid, and pay the money arising from the sale of the said lots to the said Samuel Hargrave, or his legal representatives, and to the guardians of the legal representatives of the said John Macon, deceased, by his first wife, who are now infants.

Powers of the  
trustees.

4. The trustees of the said towns, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein, as to them shall appear proper, and to settle and determine all disputes concerning the bounds of the said lots.

Purchasers failing  
to improve their  
lots to forfeit  
them.

5. If the purchaser of any lot in the said towns, shall fail to build thereon according to the conditions of his deed of conveyance, the trustees of the said towns, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said towns.

Privileges of the  
owners of lots.

6. So soon as the purchasers of lots in the said towns shall have built thereon and saved the same, according to their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Vacancies in the  
trustees how to be  
filled.

7. In case of the death, resignation, or other disability of any of the said trustees, the vacancy thereby occasioned, shall be supplied by the remaining trustees, or a majority of them, and the



person or persons so elected, shall have the same power and authority as if he or they had been particularly named in this act.

8. This act shall commence and be in force from the passing thereof. Commencement.

CHAP. 53.—An ACT to establish a town on the lands of William Cannon, in the county of Buckingham.

(Passed November 28, 1793.)

1. *Be it enacted by the general assembly,* That twenty-five acres of land, the property of William Cannon, lying on James river, near the mouth of Bear Garden creek, in the county of Buckingham, shall be, and they are hereby vested in John Moseley, Thomas Moseley, Henry Bell, William Anderson, Joshua Fry, Robert Cary, Samuel Allen, David Coupland, and John Barnard, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of New Canton. Town established on Cannon's land in Buckingham.

Name.

2. So soon as the said twenty-five acres of land shall be laid off into lots and streets, the trustees or a majority of them, shall proceed to sell the lots at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months in the Virginia gazette, the purchasers to hold the said lots subject to the condition of building on each, a dwelling house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within seven years from the day of sale. The trustees, or a majority of them, shall convey the said lots to the purchasers in fee, subject to the condition aforesaid, and pay the money arising from the sales to the said William Cannon, or his legal representatives. Lots, when and how to be sold.

3. The said trustees, or a majority of them, shall have power from time to time to settle and determine all disputes concerning the bounds of the lots, and to make such regulations for the building of houses thereon, as to them shall seem most proper. Powers of the trustees.

4. In case of the death, removal out of the county, or other disability of any of the said trustees, it shall be lawful for the others or a majority of them, to supply such vacancy; and the persons so chosen shall have the same powers, as if they had been named in this act. Vacancies how to be supplied.

5. The purchasers of lots when they shall have built thereon according to the conditions of their deeds, shall have the same rights, privileges, and immunities, which the freeholders of other towns in this state, not incorporated, hold and enjoy. Privileges of the owners of lots.

6. If the purchaser of any lot shall fail to build thereon according to the condition of his deed, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom in any manner for the benefit of the said town. Purchasers failing to improve their lots to forfeit them.

CHAP. 59.—An ACT concerning the town of Bath in the county of Berkely.

(Passed December 3, 1793.)

1. Whereas it is represented that some of the trustees of the town of Bath, in the county of Berkely, from their remote situation, refuse or neglect to act, and others are dead, whereby a meeting of a majority of them cannot be obtained: Preamble.





- Trustees appointed.** 2. *Be it therefore enacted by the general assembly, That Alexander White, Philip Pendleton, Moses Hunter, Samuel Reid, William Alexander, George Creamer, and John Hunter, gentlemen, shall be, and they are hereby constituted trustees of the said town of Bath, in the stead and place of those heretofore appointed, and they, or a majority of them, shall have the same power and authority as if they had been nominated in the act for establishing the said town. Any law to the contrary thereof, notwithstanding.*
- Vacancies how to be filled.** 3. In case of the death, removal out of the county, or resignation of any of the said trustees, the vacancy thereby occasioned, shall be supplied by the remaining trustees, or a majority of them; and the person or persons so elected, shall have the same power as if named in this act.
- Commencement.** 4. This act shall commence and be in force from the passing thereof.

CHAP. 60.—An ACT concerning the town of Mecklenburg, in the county of Berkely, and for other purposes.

(Passed December 2, 1793.)

- Trustees to be annually elected.** 1. *Be it enacted by the general assembly, That it shall be lawful for the freeholders, housekeepers, and free male persons, above the age of twenty-one years, who shall have been resident in the town of Mecklenburg, and county of Berkely, one year next preceding the election, to meet in some convenient place in the said town annually, on the first Monday in April, and then and there elect seven fit and able men, being freeholders and inhabitants of the town, to serve as trustees thereof, and the persons so elected, shall proceed to choose out of their own body, a president, whose authorities shall continue until the first Monday in April, in the year succeeding, and no longer, unless where re-elected. Every trustee before he enters upon the execution of the duties required by this act, shall take an oath, or affirm before a justice of the peace for the said county, that he will faithfully and impartially, to the best of his skill and judgment, execute his office according to the directions of this act.*
- How qualified.**
- Their powers and duties.** 2. The trustees of the said town of Mecklenburg, or a majority of them, shall have power to keep the streets in said town in repair, as also the road from the said town to the ferry landing, to have the footways in the principal streets posted and paved, at the expense of the owners of lots and parts of lots fronting on the said streets, in case the owners shall refuse or neglect to post and pave the same; to remove nuisances out of the streets, alleys and public grounds of the said town, at the expense of those who occasion them, where they shall refuse to remove the same; to open the streets and alleys of the said town agreeably to the original plan; to determine disputes between the owners of lots, concerning the boundaries of the same, and the use of the mill stream running through the said town, which determinations shall be final unless controverted at law within five years after they are made; to levy a tax not exceeding twenty-five cents, on each titable, and seventy-five cents, on each one hundred pounds worth of taxable property annually within the said town, to be applied to the keeping the said streets in repair, purchasing a fire engine, with the implements thereto belonging, and in such other manner as by this act is directed; to appoint a clerk and collector, which collector shall be





subject to the same rules and regulations as collectors of parish levies within this commonwealth. The trustees of the said town shall meet at least once in every month, at such time and place as they may agree upon, and then and there form such rules and regulations for the government of the said town, as to them shall appear just: *Provided always*, That they shall not form any bye-laws, rules or regulations, which may infringe the rights of the citizens of this commonwealth, and the president of the said trustees, shall place his signature to all acts, rules and regulations made in pursuance of this act, which acts, rules and regulations, shall be entered in a book to be kept for that purpose, which shall be open at all times for inspection.

3. *And be it further enacted*, That all fines, charges, penalties and forfeitures, imposed or incurred in virtue of the powers herein granted to the said president and trustees, and all monies expended and appropriated where individuals are liable to reimbursements, shall be recovered in the name of the president of the said trustees, in the same manner as debts are recoverable by the laws of this commonwealth. Fines, penalties, &c. how recoverable.

4. *And be it further enacted*, That it shall be the duty of the said trustees, or a majority of them, at the expiration of the term for which they have been elected, to deliver to their successors in office all the unappropriated monies that shall remain in the hands of the trustees, together with a statement of all receipts and expenditures of public monies by them received and expended, and shall be answerable for all balances so remaining in their hands. And it shall be the duty of the clerk to deliver to his successor, all books and papers relative to his said office, immediately on the expiration of the time for which he was appointed. Trustees to deliver the unappropriated monies in their hands to their successors.

5. And whereas it is represented to this general assembly, that a number of lots as laid off in the town of West Liberty, in the county of Ohio, (which have been by law vested in trustees with power to sell and convey the same within a limited time,) remain unsold: *Be it therefore enacted*, That all the lots as laid off in the said town, and not heretofore sold agreeably to the powers vested in the said trustees, are hereby revested in the proprietors of the said town, so far as to empower them to sell and convey the same. Certain lots in the town of West Liberty, revested in the former proprietor.

6. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 61.—An ACT giving further time to the owners of lots in the town of Lynchburg to build thereon.

(Passed November 2, 1793.)

1. *Be it enacted by the general assembly*, That the further time of three years, shall be, and is hereby allowed the purchasers or owners of lots in the town of Lynchburg, to build upon and save the same; any law to the contrary thereof notwithstanding. Three years allowed for improving the lots.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 62.—An ACT for erecting a market house in the town of Martinsburg, and county of Berkely.

(Passed November 30, 1793.)

1. *Be it enacted by the general assembly*, That the trustees of the town of Martinsburg, in the county of Berkely, and their suc- Trustees to erect and regulate a market.



cessors, or a majority of them, are hereby empowered to erect a market house in the said town, to appoint a clerk of the market, and to establish such rules and regulations concerning the said market, as they, or a majority of them, shall think necessary and proper.

Commencement. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. 63.—An ACT giving further time to the owners of lots in the town of Moorefield to build thereon.

(Passed December 5, 1793.)

Preamble. 1. Whereas the purchasers of lots in the town of Moorefield, in the county of Hardy, from the difficulty of procuring materials, have not been able to build on their said lots, within the time prescribed by law:

Four years allowed for improving the lots. 2. *Be it enacted*, That the further time of four years, from the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same: any law to the contrary, notwithstanding.

Commencement. 3. This act shall commence and be in force from the passing thereof.

CHAP. 64.—An ACT to appoint additional trustees to the town of Morgantown, in the county of Monongalia.

(Passed December 5, 1793.)

Trustees. 1. *Be it enacted*, That John Davis, William M'Cleery, Henry Deering, Peregrine Foster, John Stealey, William John, William Lannum, Thomas Laidley, and Hugh M'Neely, gentlemen, shall be, and they are hereby appointed additional trustees for the town of Morgantown, in the county of Monongalia; and the said trustees are hereby invested with the same powers and authorities as the trustees named in the act, intituled, "*An act to appoint trustees for the town of Morgantown, in the county of Monongalia.*"

Vacancies how to be filled. 2. In case of the death, removal out of the county, or resignation of any of the trustees named in this act, the vacancy thereby occasioned, shall be supplied by election of the remaining trustees, or a majority of them.

Commencement. 3. This act shall commence and be in force from the passing thereof.

CHAP. 65.—An ACT ascertaining the boundaries of the city of Richmond, and for other purposes.

(Passed November 27, 1793.)

Preamble. 1. Whereas doubts have arisen relative to the powers of the court of hustings, and of the common hall of the city of Richmond, and of the boundaries of the said city: For remedy whereof,

Description of the lots which are to be deemed within the city. 2. *Be it enacted*, That all the lots heretofore laid off, or which shall be hereafter laid off pursuant to any act of the general assembly, also the lots laid off by the reverend William Courts, and adjoining the town of Richmond, shall be henceforth deemed, considered and taken in all courts of law and equity as constituting a part of the city of Richmond, and all the proceedings of the court of hustings, or of the common hall of the said city heretofore done within the limits as herein expressed, shall be, and they are hereby declared as valid to all intents and purposes, as if they were hereafter to be done.

Certain proceedings of the court of hustings and common hall declared valid.





3. *And be it further enacted*, That all that part of the tenement commonly called and known by the name of Watson's tenement, or so much thereof as has been laid off into lots and improved, or which shall hereafter be laid off into lots and improved, be thenceforth considered as comprising a part of the said city of Richmond.

Part of Watson's tenement to be considered as part of the city.

4. *And be it further enacted*, That the market house erected on Shockoe hill, and known by the name of the new market, shall be, and the same is hereby established a public market house, and entitled under the direction of the common hall of the said city to equal privileges, and subject to the same regulations as the one now established in the said city.

CHAP. 66.—An ACT concerning the capitol in the city of Williamsburg.

(Passed December 9, 1793.)

1. Whereas it is represented that the building called the capitol, in the city of Williamsburg, is in a ruinous condition, and must soon, if not repaired, be unfit for the public purposes, to which it has been applied, and that it is not necessary to reserve the whole of the said building for public use :

Preamble.

2. *Be it therefore enacted by the general assembly*, That the mayor, recorder and aldermen of the city of Williamsburg shall be, and they are hereby authorized and empowered to sell, in the manner they shall judge most advantageous, the eastern wing of the said capitol, in the city of Williamsburg, and to apply the money arising from the sale, or so much thereof as shall be necessary, to the repairing of the western or front wing ; and if the money produced by the sale shall be more than sufficient for the purpose herein before mentioned, the said mayor, recorder and aldermen shall place out the surplus at interest, and the interest of the said surplus shall be a fund for keeping the said capitol in repair.

The corporation empowered to sell part of the capitol.

Purchase money, how to be applied.

3. And the said mayor, recorder and aldermen shall be, and they are hereby empowered to rent out the building called the secretary's office, in the said city, and apply the rents to the repairing of the aforesaid capitol, as the same may be required.

Building called the secretary's office to be rented out.

4. This act shall commence in force from the passing thereof.

Commencement.

CHAP. 67.—An ACT to repeal in part an act, intituled, "An act for establishing a town in the county of Wythe."

(Passed December 10, 1793.)

1. *Be it enacted by the general assembly*, That so much of the act of assembly, passed in the year one thousand seven hundred and ninety-two, intituled, "*An act for establishing a town in the county of Wythe*," as prohibits swine going at large in the said town, shall be, and the same is hereby repealed.

That part which prohibited swine going at large in town, repealed.

2. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 68.—An ACT for the relief of the emigrants from Saint Domingo.

(Passed November 8, 1793.)

1. Whereas the peculiar distresses of those persons who have emigrated from the island of Saint Domingo to this state, and are still resident therein, present them to the general assembly as interesting objects of attention and compassion, in order in some measure to remove the pressure of their situation :

Preamble.



Two thousand pounds appropriated for their relief.

2. *Be it enacted*, That the executive be authorized to draw out of the public treasury a sum of money not exceeding two thousand pounds, to be applied by them to the relief and support of the unfortunate persons of the above description, at such times and in such manner as to them shall appear most proper.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 69.—An ACT to amend the act, intituled, "An act concerning the Nottoway tribe of Indians."

(Passed November 12, 1793.)

Preamble.

1. Whereas by an act of the last session of assembly, intituled, "*An act concerning the Nottoway tribe of Indians*," it was declared to be lawful for the said Indians, under the direction, and with the approbation of trustees therein appointed, to sell and convey a tract of land lying in the county of Southampton, leased to certain persons, which lease would expire in the year one thousand seven hundred and ninety-three; and whereas it is represented, that there were within the said tract about three hundred acres of land not leased to any person at the time of passing the said act, which the said trustees did not think themselves authorized to sell and convey, notwithstanding it was the intention and desire of the Indians, that the same should be sold with the residue of the tract:

Trustees to sell and convey a tract of land not mentioned in the former act.

2. *Be it therefore enacted*, That the said tract of land containing about three hundred acres, shall be conveyed in like manner as directed for the other lands, in and by the said recited act.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 70.—An ACT providing for the settlement and payment of certain claims against the parish of Botetourt, and for other purposes.

[Passed November 23, 1793.]

Preamble.

1. Whereas it appears to the present general assembly, that the reverend Adam Smyth, now deceased, was legally admitted incumbent of the parish of Botetourt, in the counties of Botetourt and Fincastle, some time in the year of our Lord one thousand seven hundred and seventy-three, and continued in that function until the first day of January, one thousand seven hundred and seventy-seven, at which time the law providing salaries for ministers ceased to operate; and whereas it appears, that as well for certain arrears of salary for services during the period aforesaid, as for monies advanced to the use of the said parish, a considerable claim accrued to the said Adam Smyth against the said parish, the collection and payment whereof was prevented by the dissolution of the vestry by law in one thousand seven hundred and seventy-seven; and although sundry laws have been passed for the relief of the said claimant, they have not had the desired effect:

Certain laws herein enumerated repealed.

2. *Be it enacted*, That the following laws shall be, and they are hereby repealed, to wit: So much of an act, intituled, "*An act to empower the vestry of the parish of Botetourt to dispose of their glebe, for dissolving the said vestry, and for other purposes therein mentioned*," as requires the sheriff of Botetourt county to cause a vestry to be chosen for the parish of Botetourt. So much of an act, intituled, "*An act for dissolving several vestries, and for other purposes*," as authorizes the commissioners of the tax for





Botetourt county to liquidate the demand of the incumbent against the parish of Botetourt; and also an act, intituled, "*An act to repeal a former act, and to enable the court of Botetourt county to levy a sum of money due the reverend Adam Smyth.*"

3. And whereas by reason of the great emigration from the said parish, the division of the said county into several counties, and the division of the said parish into several distinct parishes, it hath become impracticable to provide for the payment of the said claim by levy; and whereas there is no incumbent in possession of the said glebe, nor any opposition to the sale thereof, from any of the inhabitants of the said counties, *It is hereby enacted*, That Thomas Madison, Daniel Trigg, Andrew Lewis, William Tate, William H. Cavendish, William M'Kee, Henry Bowyer, James Breckenridge and James Campbell, gentlemen, shall be, and they are hereby appointed commissioners, to examine, adjust, and finally settle the claims of the said Adam Smyth, deceased, against the said parish of Botetourt, as well for monies laid out by the said decedent for the use of the said parish, as for arrears of his salary, as fixed by law, as incumbent of the said parish, prior to the first day of January, one thousand seven hundred and seventy-seven. The said commissioners shall meet at Botetourt courthouse on the second Tuesday in July next, and may adjourn from time to time for the purpose aforesaid, and any six of them shall have power to carry the same into effect, or a majority of those present concurring. So soon as the said commissioners shall have made the liquidation and settlement aforesaid, which they are required to compleat within twelve months from the time of passing this act, they shall forthwith enter the same in the vestry book of the said parish.

Commissioners appointed to ascertain the debt due from the former parish of Botetourt to the estate of the reverend Adam Smyth, deceased.

4. *And be it further enacted*, That the tract of land purchased by the vestry of the said parish of Botetourt, from Thomas Madison, esquire, and by law appropriated as a glebe for the said parish, and as such used and known, shall be, and the same is hereby vested in the said Thomas Madison, Daniel Trigg, Andrew Lewis, William Tate, William H. Cavendish, William M'Kee, Henry Bowyer, James Breckenridge and James Campbell, *Upon trust nevertheless*, that they, or any three of them, shall, upon the eleventh day of January, one thousand seven hundred and ninety-five, make sale of the said tract of land upon the premises, and by deed of bargain and sale, convey the same with the appurtenances to the purchaser or purchasers in fee simple: *Provided*, That the said trustees shall receive one third of the purchase money at the time of sale, and bonds and sufficient security for payment of the residue, one moiety at the expiration of one year, and the other moiety at the expiration of one other year thereafter.

Glebe land of the said parish to be sold.

5. The purchase money arising from the sale of the said glebe lands, shall by the said trustees, or any six of them, be appropriated when received, in the following manner, to wit: They shall first pay unto Alexander Smyth, administrator with the will annexed of the reverend Adam Smyth, deceased, the sum which may be found due to him in manner aforesaid, with legal interest from the time the same became due, and the balance (after retaining the allowance hereafter made them,) they shall pay the rector and trustees of Liberty hall, the president, wardens and directors of Botetourt seminary, and the trustees of Wythe academy, to the use of the same respectively, in such proportions as they shall think just.

Purchase money, how to be applied.





Allowances to the trustees for their trouble.

6. The said commissioners shall have and receive, each of them who shall carry this act into execution, as a compensation for their services, nine cents for each mile they shall travel, and two dollars for each day they shall necessarily attend, in performance of the duties hereby enjoined upon them.

Commencement.

7. This act shall commence and be in force from and after the passing thereof.

CHAP. 71.—An ACT directing duplicates of certificates and a warrant to be issued to certain persons.

(Passed November 13, 1793.)

Duplicate warrants and certificates to be issued to the clerk of Washington county.

1. *Be it enacted*, That the auditor of public accounts, shall issue to John Campbell, clerk of the county court of Washington, for the use of the said county, a duplicate of a warrant for the sum of forty pounds six shillings and three pence, dated the thirteenth day of November, one thousand seven hundred and ninety-two, number two thousand seven hundred and seventy-seven, for the additional allowance by law upon wolves' heads, in lieu of the original, which hath been lost.

And to William Thomas.

2. The auditor shall also issue to William Thomas, duplicates of two certificates, one a loan office, dated the sixth day of April, one thousand seven hundred and eighty, for ninety-five pounds sixteen shillings and eleven pence, number ten thousand eight hundred and ninety-four, and the other for funded paper money, dated the seventeenth day of September, one thousand seven hundred and ninety-two, for two pounds five shillings and three pence, number ten thousand eight hundred and ninety-nine, in lieu of the originals, which he hath lost.

Upon their giving bond and security to indemnify the commonwealth and the U. States.

3. *Provided always*, That the said John Campbell and William Thomas, shall previous to the obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the executive, to indemnify the commonwealth and the United States.

Commencement.

4. This act shall commence and be in force from the passing thereof.

CHAP. 72.—An ACT directing the register of the land office to issue a land warrant to William Smith.

(Passed November 27, 1793.)

Land warrant to be issued to William Smith.

1. *Be it enacted by the general assembly*, That the register of the land office shall issue to William Smith, or his assigns, a warrant or warrants for four hundred twenty-three and three quarter acres of waste and unappropriated land within this commonwealth, in virtue of a certificate for that quantity, heretofore issued by the auditor of public accounts.

Commencement.

2. This act shall commence in force from the passing thereof.

CHAP. 73.—An ACT directing the register of the land office to issue land warrants to certain persons.

(Passed November 16, 1793.)

Land warrant to be issued to William James.

1. *Be it enacted by the general assembly*, That it shall be lawful for the register of the land office, and he is hereby required, upon application to him made, to issue a warrant or warrants in favor of William James, for seven hundred and forty and an half acres of waste and unappropriated land within this state: also a warrant or



warrants in favor of John Fergusson, for eight hundred and seventy acres: also a warrant or warrants in favor of Gawin Hamilton, for eleven hundred and fifty and an half acres; and also a warrant or warrants in favor of John Parr, for three hundred and twenty-eight and an half acres of like waste and unappropriated land: *Provided*, That the said William James, John Fergusson, Gawin Hamilton and John Parr shall respectively produce to the register, a certificate or certificates from the auditor of public accounts, entitling them to the said quantities of land.

John Fergusson,  
Gawin Hamilton,  
and John Parr.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 74.—An ACT authorizing the register to issue a duplicate land warrant to Gilbert Combs and others.

(Passed December 12, 1793.)

1. *Be it enacted by the general assembly*, That it shall be lawful for the register of the land office, and he is hereby required, upon application to him made, to issue a duplicate warrant to Gilbert Combs, Zachariah Griffin, Anthony Griffin, William Cruger, William Nall, Zachariah Wall, and James Yowell, for seven hundred and fifty acres of waste and unappropriated land within this state, in lieu of a warrant which had originally issued to them, for the said quantity of land, and which was consumed by fire previous to the location thereof.

Duplicate land  
warrant to be is-  
sued to Gilbert  
Combs and others.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 75.—An ACT to remit the damages on a judgment obtained against Benjamin Branch, deceased.

(Passed November 14, 1793.)

1. *Be it enacted by the general assembly*, That the damages on a judgment obtained by the commonwealth against Benjamin Branch, in the year one thousand seven hundred and eighty-five (who departed this life the succeeding year,) for the balance of the taxes due from the county of Chesterfield, for the year one thousand seven hundred and eighty-four, shall be, and the same are hereby remitted, and all further proceedings on the said judgment for the recovery thereof shall cease.

Damages remitted.

2. This act shall commence in force from the passing thereof. Commencement.

CHAP. 76.—An ACT for replacing Andrew Green on the pension list.

(Passed November 29, 1793.)

1. *Be it enacted by the general assembly*, That Andrew Green, who in consequence of wounds received in the service of his country during the late war, was placed on the list of pensioners with an allowance of twelve pounds per annum, which under the operation of "*An act concerning pensioners*," passed in the year one thousand seven hundred and eighty-five, was discontinued, shall be re-admitted on the pension list, and entitled to have and receive the annual sum of twelve pounds.

His pension.

2. *And be it further enacted by the general assembly*, That the auditor of public accounts on application to him made, either in person or by attorney, shall issue to the said Andrew Green the

Arrears due to him  
to be paid.





arrears of pension at the rate aforesaid, from the period of its discontinuance to the present time.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 77.—An ACT for placing Ann Hill and Thomas Harris, on the list of pensioners.

(Passed December 2, 1793.)

Ann Hill's pension.

1. *Be it enacted by the general assembly*, That Ann Hill, widow of Amos Hill, who during the late war served as a soldier in the first state regiment, and fell at the siege of York, shall be placed on the list of pensioners, with an allowance of twelve pounds per annum.

Sum of money to be paid to her for her immediate relief.

2. *And be it further enacted*, That the auditor of public accounts shall, and he is hereby directed, on application to him made, to issue to the said Ann Hill, a warrant on the treasurer for the sum of twelve pounds for her immediate relief.

Thomas Harris's pension.

3. *And be it further enacted*, That Thomas Harris, who was disabled from gaining a support by labour, in consequence of several wounds received in the defence of the armoury at Williamsburg, in a mutiny of the American soldiery, which happened at that place during the late war, shall be placed in like manner on the list of pensioners, and annually have and receive the sum of twelve pounds.

Sum of money to be paid to him for his immediate relief.

4. *And be it further enacted*, That the auditor of public accounts shall, and he is hereby directed, on application to him made, to issue to the said Thomas Harris, a warrant on the treasurer for the sum of twelve pounds for his immediate relief.

Commencement.

5. This act shall commence and be in force from and after the passage thereof.

CHAP. 78.—An ACT concerning Benjamin Blackburne, a pensioner.

(Passed December 2, 1793.)

Preamble.

1. Whereas it appears to this general assembly, that Benjamin Blackburne is allowed the sum of fifteen pounds per annum, as a pension, in consequence of certain wounds received in the service of this commonwealth, in an action against the Indians in the year one thousand seven hundred and seventy-four, commonly called the battle of Point Pleasant, but by reason of his residence in that part of North Carolina, which has been lately ceded to congress, and is now stiled the territory of the United States, south of Ohio, he stands incapacitated from complying with the formalities which are required by law to enable him to receive the same:

Arrears of his pension to be paid to him.

2. *Be it therefore enacted*, That the auditor of public accounts shall, and he is hereby directed and required, to issue unto the said Benjamin Blackburne a warrant or warrants, for the arrearages of pension due him, at the rate of fifteen pounds per annum, from the time the same has been withheld from him.

Mode of obtaining it in future.

3. *And be it further enacted*, That in future it shall be lawful for the said Benjamin Blackburne, or his attorney, during the existence of his disability, to produce to the auditor of public accounts, a certificate from some court of record where he resides, as to the identity of him, the said Benjamin Blackburne, and also the report upon oath of two physicians, or surgeons, resident in the county aforesaid, respecting the nature of his disability, and that they be-



lieve him incapable from such disability of obtaining his livelihood by labor, annually, whereupon the auditor is hereby directed, to issue his warrant for the annual pension as aforesaid, in the same manner as if the certificate had been given by some court of record within this commonwealth, any thing heretofore contained in any law to the contrary, notwithstanding.

4. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 79.—An ACT for placing John Wright on the list of pensioners.

(Passed December 5, 1793.)

1. Whereas it has been represented to this present general assembly, that John Wright served as a soldier in the regiment of militia, belonging to this commonwealth, commanded by colonel Charles Lynch, and was dangerously wounded at the battle of Guilford courthouse, by a musket ball which fractured the bones of his head and occasioned an exfoliation therefrom: And whereas, by reason of the present situation of the wound, he has been necessitated to employ a surgeon, and having a wife and five small infants, dependent on his personal labor, is rendered unable to support them: Preamble.

2. *Be it therefore enacted by the general assembly,* That the auditor of public accounts, on application to him made, either in person or by attorney, shall issue to the said John Wright, a warrant on the treasurer for the sum of fifteen pounds for his immediate relief. Money to be paid to him for his immediate relief.

3. *And be it further enacted by the general assembly,* That the said John Wright shall be placed on the list of pensioners, with an allowance of twelve pounds per annum. His pension.

4. This act shall commence in force from the passing thereof. Commencement.

CHAP. 80.—An ACT concerning John M'Colley and others.

(Passed December 2, 1793.)

1. Whereas it has been represented to the general assembly, that some time in the month of March last, a party of hostile Indians made an irruption into the county of Harrison and carrying off the property of some of the inhabitants of the said county, were pursued by a party of men, under the command of captain John M'Colley; that nine of the said party took a horse each, for the purpose of carrying provisions and crossing waters: And whereas it is just and reasonable, that compensation be made by the public for the service and forage of the said horses: Preamble.

2. *Be it enacted by the general assembly,* That the auditor of public accounts shall issue to the said John M'Colley, a warrant for the amount of the service and provender of the horses engaged in the pursuit aforesaid, estimating the same at the rate of three shillings per day, for each horse, payable out of any money in the public treasury. A sum of money to be paid to him.

3. This act shall commence and be in force from and after the passage thereof. Commencement.

CHAP. 81.—An ACT concerning Van Swearingham.

(Passed December 2, 1793.)

1. *Be it enacted by the general assembly,* That the auditor of public accounts, on application, either in person or by attorney, to him made, shall issue to Van Swearingham, a warrant on the trea- Sum of money to be paid him.





surer for the sum of forty-five pounds nine shillings and seven pence, as a reimbursement of expenses incurred by him in the cure of William Ricords, a soldier in the company commanded by captain Lawrence Vanbuskirk, who was dangerously wounded in an action with the Indians, and also for supplying the said William Ricords with board and lodging for the space of seven months, the period the said William Ricords was attended by a surgeon and confined by his said wounds.

Commencement. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. 82.—An ACT concerning Alexander M'Farland.

(Passed November 11, 1793.)

To be paid for his services as a scout on the frontiers.

1. *Be it enacted by the general assembly*, That Alexander M'Farland, who was ordered on duty, as a scout for the county of Russell, by the county lieutenant of said county, and acted as such, from the twenty-ninth day of May, one thousand seven hundred and ninety, until the first of July following, shall be compensated for his services in like manner, as if the said Alexander M'Farland had been employed by the executive authority of this commonwealth; and the auditor of public accounts, shall, and he is hereby required, on proper application to him made, in person, or by attorney, to issue to the said Alexander M'Farland, a warrant or warrants on the treasurer for the same.

Commencement. 2. This act shall commence and be in force from and after the passage thereof.

CHAP. 83.—An ACT directing the payment of a sum of money to Thomas Newton, for the purposes therein mentioned.

[Passed November 14, 1793.]

Certain certificates and warrants to be issued to him.

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby directed and required, on application to him made, to issue to Thomas Newton, administrator, with the will annexed of John Hutchings, deceased, late of the borough of Norfolk, or to his attorney, legally empowered to demand the same, a certificate or certificates for the sum of one thousand four hundred pounds, for property belonging to the said John Hutchings, destroyed in the said borough, by the burning thereof in the year one thousand seven hundred and seventy-six. The auditor of public accounts shall in like manner issue to the said Thomas Newton, a warrant or warrants for the interest due thereon, after and at the rate heretofore allowed by law, in cases of a similar nature.

How to be disposed of by him.

2. *And be it further enacted by the general assembly*, That the said Thomas Newton shall appropriate the certificates and warrants herein directed to be issued, to the benefit of the legal representatives of the said John Hutchings, deceased, in the ratio and proportion appointed by law in the distribution of personal estates.

Commencement.

3. This act shall commence and be in force from and after the passage thereof.





CHAP. 84.—An ACT to pay William Nice a sum of money for the purposes therein mentioned.

[Passed November 25, 1793.]

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall be, and he is hereby directed, to issue to William Nice, a warrant or warrants upon the treasurer of this commonwealth, for the sum of one hundred and forty-seven dollars and sixty cents, for his services as commandant of a party of militia, ordered out by the executive to guard the public arms. The treasurer is hereby authorized and directed to pay the amount of the said warrant or warrants out of any money in the treasury.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 85.—An ACT directing the auditor of public accounts, to issue certificates to certain persons.

[Passed November 30, 1793.]

1. *Be it enacted by the general assembly*, That the auditor of public accounts, shall, and he is hereby directed, on application to him made, either in person or by attorney, to issue to Britton Jones, who in the course of the late war, was drafted from the militia of the county of Greenville, and served six months as a soldier in the town of Portsmouth, a certificate or certificates for the amount of the pay due to him, for such service.

2. The auditor shall in like manner issue to Nathaniel Rogers a certificate or certificates, for thirty-one days hire of a waggon, team and driver, and also for his personal services, as a waggon conductor, one hundred and three days, in the militia of this state during the late war; estimating the same at the respective rates, heretofore established and allowed by law.

3. This act shall commence and be in force from and after the passage thereof.

CHAP. 86.—An ACT directing the auditor to issue certificates to certain persons.

[Passed December 9, 1793.]

1. *Be it enacted by the general assembly*, That the auditor of public accounts, shall, and he is hereby directed, to issue to Peachy Bledsoe, or his attorney legally authorized to demand the same, a certificate for the depreciation of pay due to him for his services, as a serjeant in the second state regiment, from the seventeenth day of February, one thousand seven hundred and seventy-seven, until the seventeenth day of February, one thousand seven hundred and eighty, together with warrants for the interest due thereon.

2. He shall in like manner issue to William Cheatham, a certificate for the amount of his pay, as a soldier in the fifth Virginia regiment, from the month of February, one thousand seven hundred and seventy-eight, until the month of February, one thousand seven hundred and seventy-nine, with warrants for the interest due thereon.

3. He shall in like manner issue to Thomas Drummond, a warrant on the treasurer for the sum of twenty-nine pounds fourteen shillings, for certain blankets and rugs furnished by the said Drummond, for the purpose of preventing a communication of the flames to the tobacco inspection at Rocky Ridge, at the burning thereof



in the month of January last, which have been represented to this assembly, as the means whereby much tobacco was saved, which would otherwise have been destroyed, which warrant shall be made payable out of any public money in the hands of the treasurer.

Certificate to be issued to the heir of William Bowling, deceased.

4. *And be it further enacted*, That the auditor of public accounts, be directed to issue to John Bowling, heir at law to William Bowling, deceased, who enlisted as a soldier in the second Virginia state regiment, in the month of March, one thousand seven hundred and seventy-seven, and died in the month of July, one thousand seven hundred and seventy-eight, a certificate for the depreciation of pay due to the said William Bowling for his services.

And to Thomas and Pascow Herbert.

5. *And be it further enacted*, That the auditor of public accounts shall issue to Thomas Herbert, and Pascow Herbert certificates for the depreciation of their pay as officers in the navy of this state.

Commencement.

6. This act shall commence and be in force, from and after the passing thereof.

#### CHAP. 87.—An ACT concerning Charles Fierer.

(Passed December 11, 1793.)

1. Whereas it has been represented to the present general assembly, that Charles Fierer, late a subject of the reigning Prince of Hesse Cassel, by the resignation of a commission, which he held in the forces of that prince, during the late war, and his acceptance of a command in the troops of the commonwealth on state establishment, sustained a personal injury by a fall from his horse in the exercise of his military duty, and has moreover incurred a denunciation of treason, and a confiscation of his estates in his native country: And whereas it is just and reasonable to retribute such foreign officers, who by active exertions in the cause of America, have been thus injured:

Certificates to be issued to Charles Fierer.

2. *Be it therefore enacted by the general assembly*, 'That the auditor of public accounts, on application to him made, either in person or by attorney, shall, and he is hereby directed and required, to issue to the said Charles Fierer, a certificate or certificates for the balance of pay and depreciation due to him for his services as a captain of cavalry in the state legion, during his continuance in the service of this state.

Commencement.

3. This act shall commence and be in force from and after the passage thereof.

#### CHAP. 88.—An ACT for paying Thomas Paul for cleaning the several apartments of the capitol, occupied by the general assembly, and for other purposes.

(Passed December 12, 1793.)

Warrants to be issued to Thomas Paul.

1. *Be it enacted by the general assembly*, That the auditor be directed to issue a warrant to Thomas Paul for seven pounds for his services for cleaning the several apartments of the capitol, occupied by the general assembly this present session, to be paid out of any money in the public treasury.

And to Thomas Nicolson.

2. The auditor shall also issue to Thomas Nicolson, a warrant for the sum of eight pounds, in addition to the allowance already made him for printing the journals of the senate during the present session, payable out of any money in the public treasury.





CHAP. 89.—An ACT for paying the officers of the general assembly for their services during the present session.

(Passed December 9, 1793.)

1. *Be it enacted by the general assembly,* That the following allowances shall be made to the officers of the general assembly, for their services during the present session: To the chaplain, six pounds per week; to the clerk of the house of delegates, thirty-five pounds per week; to the clerk of the senate, seventeen pounds ten shillings per week; to the clerk of the several committees of propositions and grievances, and of privileges and elections, ten pounds per week; to the clerk of the several committees of religion and of claims, ten pounds per week; to the clerk of the committee for courts of justice, eight pounds per week; to the serjeants at arms to the senate and house of delegates, eight pounds ten shillings per week; to each of the door keepers of the senate and house of delegates five pounds per week; and to Thomas Nicolson for printing the journals of the senate, twenty-two pounds.

Allowances to the officers of the general assembly.

2. This act shall commence and be in force from and after the Commencement passage thereof.

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## RESOLUTIONS.

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### IN THE HOUSE OF DELEGATES.

WEDNESDAY, 6th November, 1793.

*Resolved,* That the executive be authorized to direct such temporary defensive operations for the protection of the frontiers, as will secure the citizens thereof, from the hostile invasions of the Indian enemy; and that the governor be requested to communicate with the president of the United States, for the purpose of establishing adequate and permanent arrangements for the security and defence of the frontiers.

*Resolved,* That the executive be authorized to allow the same pay to the troops, that has been usually allowed by this state, and to make application to the war department of the United States, for the reimbursement of all such expenses as may be incurred by this state, for the purposes aforesaid.

November 8th, 1793—Agreed to by the senate.

FRIDAY, 8th November, 1793.

The general assembly of Virginia, considering it as one among the important privileges of the people, that the doors of the senate of the United States should be open, when they are exercising their judicial and legislative functions:

*Resolved unanimously,* That the senators of this commonwealth, in the senate of the United States, use their utmost endeavours to



procure the admission of the citizens of the United States to hear the debates of their house, whenever they are sitting in their legislative capacity.

*Resolved unanimously*, That the senators of this commonwealth, in the senate of the United States, use their utmost endeavours to procure the admission of the citizens of the United States, whenever the senate shall be sitting in its judicial capacity.

November 12th, 1793—Agreed to by the senate.

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THURSDAY, 28th November, 1793.

*Resolved*, That a state cannot under the constitution of the United States, be made a defendant at the suit of any individual or individuals, and that the decision of the supreme federal court, that a state may be placed in that situation, is incompatible with, and dangerous to the sovereignty and independence of the individual states, as the same tends to a general consolidation of these confederated republics.

*Resolved unanimously*, That the senators representing this state in the senate of the United States, be, and they are hereby instructed, and the representatives requested to unite their utmost and earliest exertions with the senators and representatives from other states, coinciding in sentiment with this state, to obtain such amendments in the constitution of the United States, as will remove or explain any clause or article of the said constitution, which can be construed to imply or justify a decision, that a state is compellable to answer in any suit by an individual or individuals in any court of the United States; and that the governor is hereby requested to communicate the foregoing resolve to the supreme executives of the several states, to be submitted to the consideration of their respective legislatures.

December 3d, 1793—Agreed to by the senate.

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December 10th, 1793.

*Resolved*, That the senators of this state, in the congress of the United States, be instructed to use their utmost exertions, to have a clause inserted into the constitution of the United States, tending to prohibit any director of the bank of the United States from being a member of either house of congress.

December 11th, 1793—Agreed to by the senate.

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December 10th, 1793.

*Resolved*, That the decision of the legislature of this commonwealth, in the year 1779, upon the claims of the Indiana company, was definitive, and that this commonwealth is not bound, and ought not to appear before the supreme federal court, to any suit whatsoever relative to that subject.

December 11th, 1793—Agreed to by the senate.

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December 10th, 1793.

*Resolved*, That the executive be requested and empowered to draw out of the public treasury, all the cut silver coin which shall be therein on the first day of March next, and have the same coined at the mint of the United States, into half dimes or five cent pieces, for the use of the commonwealth.

December 10th, 1793—Agreed to by the senate.



December 10th, 1793.

*Resolved*, That the executive be empowered to employ a sufficient number of artificers to put in complete repair all the public arms; and that they also be requested to have so many bayonets and cartouch boxes provided, as may be necessary for the muskets in the public arsenals.

December 11th, 1793—Agreed to by the senate.

December 10th, 1793.

Whereas the treaty of peace between Great Britain and the United States of America, hath in every instance been complied with on the part of the latter, and hath been violated by the former; and the citizens of this commonwealth have hitherto been unable to learn, whether there is any prospect of a future compliance with the said treaty on the part of that government:

*Resolved therefore, unanimously*, That the senators representing this state in the congress of the United States, be directed to enquire into, and report to the next assembly, such measures as have been adopted by the executive of the United States, to obtain a complete compliance with the said treaty from Great Britain, with the answers of that court, and the probability which exists of a speedy and complete compliance with the said treaty on the part of that government; and that they also endeavour to effect such measures, consistent with good faith, as will suspend the operation and completion of the fourth article of the said treaty, until these United States shall be well assured of a satisfactory compliance with the said articles stipulated to be performed on the part of Great Britain.

December 11th, 1793—Agreed to by the senate.

December 11th, 1793.

Whereas it is represented to the general assembly, that a right has accrued to the commonwealth, to sundry tracts of land lying within the same, by virtue of an act, intituled, "*An act concerning escheators*," but that in consequence of the inattention of some of the officers appointed to carry the said act into effect, the title of the commonwealth thereto has not been completed:

*Resolved*, That the executive be requested to enquire into such delinquencies, and to adopt such measures, as may be deemed necessary to induce a compliance with the requisites of the said act.

December 12th, 1793—Agreed to by the senate.





# ACTS

PASSED AT A

## GENERAL ASSEMBLY

OF THE

### COMMONWEALTH OF VIRGINIA,

BEGUN AND HELD AT THE CAPITOL, IN THE CITY OF RICHMOND, ON  
TUESDAY, THE ELEVENTH DAY OF NOVEMBER, ONE THOUSAND  
SEVEN HUNDRED AND NINETY-FOUR.

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CHAP. 1.—An ACT making provision for support of civil government.

(Passed December 27, 1794.)

1. *Be it enacted by the general assembly*, That the public taxes Taxes on lands, slaves and other property. for the year one thousand seven hundred and ninety-four, shall be as follows, to wit: On lands, for every hundred pounds value, agreeable to the equalizing law, five shillings; for every slave above the age of twelve years, (except such as have been or shall be exempted by reason of age or infirmity, by the respective county or corporation courts,) one shilling and eight pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season; for all other horses, mules, mares and colts, four pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight pence on every hundred pounds of the rents thereof, to be ascertained by the rent paid by the tenant, and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed, whose judgment as to the yearly rent or value shall be final. The said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare, upon oath or solemn affirmation, what is the amount of rent paid for the same; and every person so called upon, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue, or either of them; for every four wheeled riding carriage, except phaetons and stage waggons, six shillings per wheel; for all phaetons and



stage waggons, four shillings per wheel; for every other riding carriage with two wheels, two shillings per wheel: *Provided*, That no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

On law process and appeals.

2. *And be it further enacted*, That the following tax on law process shall be paid: On each writ or declaration in ejectment, instituting a suit in the district court, or *subpoena* in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, *supersedeas*, and *habeas corpus cum causa*, or *certiorari*, issued from the general court, a district court, or high court of chancery, one dollar; on each appeal from any county court or court of hustings to a district court, one dollar. The said taxes shall by the respective clerks be taxed in the bill of costs. On each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar. No writ, *subpoena*, nor any writ of error, *supersedeas*, *certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon be first paid down. In all appeals, no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court, before the tax imposed thereon be paid. Nor shall any certificate under the seal of any county or corporation court be granted, until the tax thereon shall have been first paid to the clerk keeping such seal. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land office before the issuing of the patent. For every attestation, protestation, and all other instruments of publication from a notary public under his seal of office, fifty cents, to be collected and accounted for by the said notary public; and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council, before the delivery of such certificate; which last mentioned taxes shall be accounted for and paid in like manner, and with the like commissions for collecting, as is directed in the case of other taxes imposed by this act.

On certificates under county court seals.

On transfers of surveys.

On attestations under the seals of notaries.

On certificates under the seal of the commonwealth.

Former acts imposing taxes repealed.

Commencement.

3. All and every other act or acts imposing any tax whatsoever, shall be, and the same is hereby repealed, except so far as they may relate to the tax or duty on tobacco, and to the collection and recovery of the taxes heretofore due.

4. This act shall commence and be in force from the passing thereof.

#### CHAP. 2.—An ACT for appropriating the public revenue.

(Passed December 20, 1794.)

Aggregate fund.

1. *Be it enacted by the general assembly*, That the arrearages of the revenue taxes constituting the aggregate fund, shall continue as appropriated by an act passed the last session of assembly, intitled, "*An act for appropriating the public revenue*," and shall farther be appropriated to the payment of all warrants which shall be issued by the auditor of public accounts, in the year one thousand seven hundred and ninety-five, for interest on any debt due by this commonwealth, and of all sums of money directed to be paid by the present general assembly, for which no other provision has been made. Warrants and facilities shall be receivable, and





may be paid in discharge of the said taxes, and credit given therefor as directed by the aforesaid act; and the monies which may be paid into the treasury in discharge of the said taxes, which constitute the aggregate fund, and also the money which shall be received on the sales of tobacco paid in discharge of the same, or so much thereof as shall be necessary, shall be paid by the treasurer to the holders of warrants on the said fund, under the like regulations as are prescribed in the said act of the last session of assembly.

Monies therein, how to be divided amongst the holders of warrants.

2. And be it further enacted, That all taxes and arrearages of taxes, except those constituting the aggregate fund, shall continue as appropriated by the aforesaid act of the last session of assembly; and that all branches of revenue which shall arise to the commonwealth between the last day of December, one thousand seven hundred and ninety-four, and the first day of January, one thousand seven hundred and ninety-six, shall be appropriated to the support of the civil government, and for the contingent charges thereof; and shall also be charged with the payment of all unsatisfied warrants charged on the said taxes and arrearages of taxes, by the aforesaid act of the last session of assembly; of warrants which shall be hereafter issued for expenses attending criminal prosecutions; for slaves condemned and executed; for the state's shares in the James river, Patowmac, and Dismal swamp canal companies; for the hospital for the cure and maintenance of persons of unsound mind; to the directors of the public buildings; for erecting public buildings at the federal seat of government on the Patowmac; for the expenses attending the arsenal at the Point of Fork; for all pensions allowed by this commonwealth; for expenses attending the printing and publication of the revised code of laws; for salaries allowed by law to certain officers of the militia; and for expenses which may accrue by order of the executive in defence of the western frontier.

Former appropriations continued.

Funds for the support of government. Charges on the revenue arising between the 31st of December, 1794, and the 1st day of January, 1795.

3. And if the funds herein appropriated to the payment of the officers of the civil government, and of warrants issued by the executive for the contingent purposes thereof; on account of the state's shares in the James river, Patowmac, and Dismal swamp canal companies; for the hospital for the cure and maintenance of persons of unsound mind; for erecting the public buildings at the federal seat of government on Patowmac; for pensions due by this commonwealth; for expenses attending the printing and publication of the revised code of laws; for salaries allowed by law to certain officers of the militia; and for expenses which may accrue by order of the executive in defence of the western frontier, should not be productive early enough for those purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be deficient out of any other funds, and to replace the same as soon as possible: *Provided*, That no money shall be borrowed from the aggregate fund, until the notice directed by this act be given, and the registered warrants thereon be fully discharged.

Deficiency in certain funds to be supplied by borrowing from others.

Proviso.

4. All acts coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause.

5. This act shall commence in force from and after the passing thereof.

Commencement.



CHAP. 3.—An ACT to continue and amend the act, intituled, “An act for further continuing and amending the act, intituled, ‘An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors.’”

(Passed December 21, 1794.)

Act of 1793, concerning executions, continued until the 1st of January, 1796.

1. *Be it enacted by the general assembly of Virginia*, That the act, intituled, “An act for further continuing and amending the act, intituled, ‘an act for reducing into one, the several acts concerning executions, and for relief of insolvent debtors,’” passed in the year one thousand seven hundred and ninety-three, shall be, and the same is hereby continued in force, until the first day of January, one thousand seven hundred and ninety-six.

Justices of any county may administer the oath to an insolvent debtor committed to the jail of such county.

2. *And be it further enacted*, That if any person shall hereafter be taken or charged in execution in any suit commenced or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, or of the court of that county or corporation, to whose jail such person shall be committed, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before any two justices of the county or corporation, to whose jail he may be committed, at the courthouse of such county or corporation, on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions, with which he or she shall stand charged in the said jail, which warrant such jailor is hereby required to obey, and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such person or persons shall be in execution; and the said justices shall have full power to administer the oath heretofore required by law to such prisoner or prisoners, and to release him or them in the manner and under the regulations and provisions prescribed by the said recited act.

Penalty on a sheriff failing to deliver a forthcoming or replevy bond to the plaintiff on demand, or to return it within sixty days to the clerk's office.

3. *And be it further enacted*, That if any sheriff or other officer shall fail to deliver to the creditor, his agent or attorney, or other legal representative, on demand, any bond taken for the forthcoming of property, or any twelve months bond taken under the above recited act, or return the same to the office from whence the execution issued, within sixty days from the return day of the execution, such sheriff or other officer, his executors or administrators, shall be liable to the same fine and penalty for every month of such failure, to be recovered in the same manner by the party injured, as is directed by law against a sheriff failing to return an execution.

Mode of proceeding against a sheriff failing to take bond for the excess, on a sale on twelve months credit.

4. On a sale under execution upon twelve months credit, where the amount of such sale shall exceed the principal, interest and costs, if the sheriff or other officer shall fail to take a twelve months bond for such excess as directed by the twenty-sixth section of the above recited act, such sheriff or other officer so failing, his executors or administrators, shall be liable to the debtor or his legal representatives for the full amount of such excess, to be recovered in the same manner as is directed by law against a sheriff failing to pay money received on an execution.

Obligees and assignees' remedy on replevy bonds.

5. The obligee or obligees, in a twelve months replevy bond, shall and may have the like remedy thereon, by *fieri facias*, against the executors or administrators of a deceased obligor or obligors, as such obligee or obligees may now have against the obligor or obligors themselves; and that every assignee or assignees, and the ex-





ecutors or administrators of every assignee of such bond, shall be entitled to the like remedy thereon, as by law is given to the executors or administrators of the first assignee thereof.

6. If a replevy or forthcoming bond be at any time quashed as Plaintiff may sue out new execution when a replevy or forthcoming bond is quashed. faulty, the obligee or obligees in such bond, besides his or their remedy against the sheriff, may moreover have execution on his or their judgment, in the same manner as if such replevy or forthcoming bond had never been taken.

7. All persons who have or shall hereafter have any money or tobacco due on a twelve months replevy bond, or bond taken for the excess on a sale under execution upon twelve months credit, may at their election after lodging the same in the clerk's office, with an affidavit as directed by law, prosecute as well the writs of *elegit* and *capias ad satisfaciendum* thereon, as the writ of *feri facias* now given by law; on which writs of *elegit* and *capias ad satisfaciendum*, the same rules and regulations shall be observed, as are by law established, when issued on judgments: *Provided*, That if any person or persons taken on any such *capias ad satisfaciendum*, after twelve months replevy, shall tender to the sheriff or other officer serving the same, slaves or other personal property, to the value of the debt and costs for which such execution has issued, or may hereafter issue, the sheriff or other officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money or tobacco at a future day, but shall proceed to sell the same, or sufficient thereof to raise the money or tobacco mentioned in the said execution.

8. If any sheriff or other officer shall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the same issued, on or before the return day thereof, the executors or administrators of such sheriff or other officer, as well as the securities of such sheriff or other officer, and the executors or administrators of such securities, shall be liable to like fine and penalty, recoverable in the same manner as by law is directed against a sheriff himself, failing to return an execution.

9. No sheriff or other officer shall return any execution or attachment for not performing a decree in chancery to the office from whence the same issued, without noting thereon how he hath executed the same, unless by the express directions in writing of the plaintiff, his agent or attorney; and if any sheriff or other officer having no such directions, shall return any such execution or attachment to the office from whence the same issued, without noting or endorsing thereon how he hath executed the same, such sheriff or other officer, and his securities, and the executors or administrators of all and every of them, shall in every such case be liable to the like fine, and recoverable in the same manner as is directed by law against a sheriff failing to return an execution.

10. When any sheriff or other officer shall provide sustenance for the support of slaves, horses, or other live stock, by virtue of the twentieth section of the above recited act, the said sheriff or other officer in lieu of the mode thereby provided for obtaining compensation therefor, shall be allowed per day for each slave fifteen cents; for each horse or mule twelve cents; and for each head of horned cattle five cents; which allowance the said sheriff or other officer shall charge to the plaintiff, to be collected in same manner





as commissions arising on executions, and shall be paid by the defendant to the plaintiff, to be taxed in the bill of costs by the said sheriff or other officer.

Sheriffs to include their commissions in forthcoming and replevy bonds.

11. *And be it further enacted*, That every sheriff or coroner, (as the case may be) shall be allowed for taking every bond to the creditor sixty-two cents, and no more; and that every sheriff or coroner may include his commissions in forthcoming and replevy bonds taken on any writ of execution; but he shall not demand or receive such commissions on forthcoming bonds, unless the same shall be forfeited.

Fines and penalties on executors of sheriffs, to affect only the assets in their hands.

12. *Provided always*, That where any fine or penalty is inflicted on the executors or administrators of any sheriff by this or the above recited act, the same shall be considered to affect only the assets in their hands as executors or administrators.

Part of the 38th section of the act of 1793 repealed. Commencement and duration.

13. So much of the thirty-eighth section of the said recited act as is contrary hereto, shall be, and the same is hereby repealed.

14. This act shall commence and be in force from and after the thirty-first day of December, one thousand seven hundred and ninety-four, until the first day of January, one thousand seven hundred and ninety-six.

CHAP. 4.—An ACT authorizing the executive to remit the damages and fines incurred by sheriffs and collectors in certain cases.

[Passed December 26, 1794.]

Discretionary power vested in the executive to remit damages, and fines incurred by public collectors.

1. *Be it enacted by the general assembly*, That when any application shall be made to the executive by any sheriff or other collector of the public revenue, or their securities, or the representatives of either, for the remission of damages or fines incurred by them in favor of the commonwealth, the executive shall be authorized to take into consideration the particular circumstances of each case, and may remit the whole or part of such damages or fines, as to them shall appear just and reasonable: *Provided*, That before any damages, or any part thereof shall be remitted that the applicant shall produce a certificate from the auditor of public accounts, that the principal, interest and costs have been paid into the public treasury.

Proviso.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 5.—An ACT to amend an act, intituled, "An act declaring what shall be treason; for punishing certain offences injurious to the tranquillity of the commonwealth; and concerning felonies and offences committed out of the jurisdiction of the same."

(Passed December 2, 1794.)

By whom, and how persons convicted of treason may be pardoned.

1. *Be it enacted by the general assembly*, That the governor, or in case of his absence, inability or death, the councillor who acts as president shall in no wise have or exercise a right of granting pardon to any person or persons convicted of treason against the commonwealth, but may suspend the execution until the meeting of the general assembly, who shall determine whether such person or persons are proper objects of mercy or not, and order accordingly.

Commencement.

2. This act shall commence and be in force from the passing thereof.



## CHAP. 6.—An ACT to amend the act for regulating conveyances.

(Passed December 23, 1794.)

1. Whereas it is enacted in the fifth section of the act, intituled, *Preamble.*  
*"An act for regulating conveyances,"* passed the thirteenth day of December, in the year of our Lord, one thousand seven hundred and ninety-two, in the following words, to wit: "If the party who shall sign and seal any such writing reside not in Virginia, or in the district or county where the lands conveyed lie, the acknowledgment of such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any court of law, or the mayor or other chief magistrate of any city, town or corporation of the county in which the party shall dwell, certified by such court, or mayor or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court, to be recorded within eighteen months after the sealing and delivering, where the party resides out of this commonwealth, and within eight months after the sealing and delivery, where the party resides within this commonwealth, shall be as effectual as if it had been in the last mentioned court." And whereas the operation of the said act is found not to be coextensive with the intent thereof, by reason that some of the subdivisions of the United States, as well as of other countries, are not denominated by the term of counties:

2. *Be it therefore enacted,* That if any party who shall sign and seal any such writing as is contemplated in the section aforesaid, reside not in Virginia, the acknowledgment by such party, or the proof by the number of witnesses requisite of the sealing and delivering of the writing before any court of law, or the mayor or other chief magistrate of any city, town, or corporation, of and in the country in which the party shall dwell, certified by such court, or mayor, or chief magistrate, in the manner such acts are usually authenticated by them, and offered to the proper court to be recorded within two years after the sealing and delivering, shall be as effectual as if it had been done in the last mentioned court.

*How deeds, &c. made by persons residing out of the state, may be proved and recorded.*

3. This act shall commence and be in force from the passing thereof. *Commencement.*

## CHAP. 7.—An ACT concerning prison breakers.

(Passed December 13, 1794.)

1. Whereas it hath been held that by the common law, the offence *Preamble.*  
of breaking a jail or prison is in all cases felony:

2. *Be it therefore enacted by the general assembly,* That none from henceforth who being in actual jail, breaketh prison, shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convict thereupon, according to the law of the land. *In what cases breaking prison shall be felony.*

3. This act shall commence and be in force from the passing thereof. *Commencement.*

## CHAP. 8.—An ACT concerning debtors and their securities.

(Passed December 23, 1794.)

1. Whereas in many instances creditors have delayed to com- *Preamble.*  
mence actions on bonds, bills, or promissory notes, executed to them





for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been ultimately compelled to discharge the amount of the money or tobacco due by such bill, bond, or note, without the possibility of being afterwards reimbursed by such principal debtor or debtors: For remedy whereof,

When securities in bonds may require the creditors to commence suits thereon.

2. *Be it enacted by the general assembly*, That when any person or persons shall hereafter become bound as security or securities by bond, bill, or note, for the payment of money or tobacco, and shall apprehend that his or their principal debtor or debtors is or are likely to become insolvent, or to migrate from this commonwealth, without previously discharging such bond, bill, or note, so that it will be impossible or extremely difficult for such security or securities after being compelled to pay the amount of the tobacco or money which may be due by such bond, bill, or note, to recover the same back from such principal debtor or debtors, it shall and may be lawful for such security or securities, in every such case, provided an action shall have accrued on such bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as security or securities as aforesaid, in suit; and unless the creditor or creditors so required to put such bond, bill, or note, in suit, shall in a reasonable time commence an action on such bond, bill, or note, and proceed with due diligence in the ordinary course of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by such bond, bill, or note, the creditor or creditors so failing to comply with the requisition of such security or securities, shall thereby forfeit the right which he or they would otherwise have to demand and receive of such security or securities the amount of the money or tobacco which may be due by such bond, bill, or note.

Creditors failing to do so, to lose their remedy against the securities.

Securities and their executors may proceed in the same manner with the executors of the creditor.

3. Any security or securities, or in case of his or their death, then his or their executors or administrators, may in like manner and for the same cause make such requisition of the executors or administrators of the creditor or creditors of such security or securities, as it is herein before enacted may be made by a security or securities of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid being duly made, the security or securities, his or their executors or administrators, making the same, shall have the same relief that is herein before provided for a security or securities when his or their creditor or creditors shall be guilty of a similar failure.

Bonds with collateral conditions and those given by guardians, executors and public officers excepted.

4. *Provided always*, That nothing in this act contained shall be so construed as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, administrators, or public officers.

Creditor's remedy against his principal debtor, not to be affected.

5. *And provided also*, That the rights and remedies of any creditor or creditors against any principal debtor or debtors, shall be in no wise affected by this act. Any thing therein to the contrary, or seeming to the contrary, notwithstanding.

Commencement.

6. This act shall commence and be in force from and after the first day of March, which shall be in the year of our Lord, one thousand seven hundred and ninety-five.



CHAP. 9.—An ACT supplementary to the act, intituled, “An act to empower securities to recover damages in a summary way.”

(Passed December 23, 1794.)

1. *Be it enacted by the general assembly*, That in all cases where execution hath been or shall hereafter be awarded or issued in any of the courts of record within this commonwealth, against any person or persons as security or securities, his, her, or their heirs, executors, or administrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be so awarded or issued without judgment, and the amount of such bond, obligation or recognizance, or any part thereof, or the debt or damages due by reason thereof, or any part thereof, hath been paid or discharged under the said execution issued thereon by such security or securities, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such security or securities, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against such principal obligor or obligors, recognizor or recognizers, his, her, or their heirs, executors, or administrators, in any court where such execution may have been awarded or issued against such security or securities, his, her, or their heirs, executors, or administrators.

How securities in bonds, on which executions may be awarded without judgment, may proceed against their principals.

2. *And be it further enacted*, That where the said principal obligor or obligors, recognizor or recognizers, have or hereafter shall become insolvent, and there have been, or shall be two or more securities jointly bound with the said principal obligor or obligors, recognizor or recognizers, in any such bond, obligation, or recognizance, and execution shall be awarded or issued thereon against one or more of such securities, and his or their legal representatives, it shall and may be lawful for the court in which such execution was awarded or issued, upon motion of the party or parties, his or their legal representatives, against whom execution hath been awarded or issued as aforesaid, to award or issue execution against all and every of the obligors and recognizers, and their legal representatives, for their and each of their respective shares and proportions of the said debt or damages due by reason of the said obligation or recognizance: *Provided always*, That no judgment shall be obtained or execution awarded or issued by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice in writing thereof.

How they may proceed against those who were bound with them as securities.

3. All judgments entered, and executions awarded and issued by virtue of this act, shall be enforced under the like regulations with judgments under the act, intituled, “An act to empower securities to recover damages in a summary way.”

Executions on such judgments, how to be enforced.

4. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 10.—An ACT to amend an act, intituled, “An act concerning escheators.”

(Passed December 26, 1794.)

1. Whereas a contrariety of opinion hath prevailed respecting the construction of an act of the general assembly of this commonwealth, passed November thirtieth, one thousand seven hundred and ninety-two, intituled, “An act concerning escheators;” and it is proper that the said act should be so explained and amended as to prevent any doubts in the exposition thereof in future:

Preamble.





How many jurors shall be impanelled on each inquest.

Where they shall meet.

Inquisitions, when taken, how to be disposed of.

How and when escheated lands shall be sold.

How far this act is to affect the act of 1792, concerning escheators.

Escheators' fees.

And commissions.

Attorney for the commonwealth to attend at the taking of inquests. Allowance to him.

Commencement.

2. *Be it enacted by the general assembly*, That each and every inquest hereafter to be taken under the said part recited act, shall consist of sixteen freeholders, who shall be returned and impanelled by the sheriff of the county, to meet at the courthouse of the said county where the inquest is taken, who shall suffer every person to give evidence openly in the presence of the said jurors; and the said inquisition so taken, shall be by indentures to be made between the escheator and any twelve or more of the inquest, whereof the counter part shall remain in the possession of the first person that shall be sworn in the said jury, and by him shall be returned to the court of the same county, there to be recorded, and the other part sealed by the jurors agreeing in their verdict, shall by the escheator be sent into the court of the district in which the land lieth, within one month after the inquest taken, and the same proceedings shall then in every case and manner be pursued as is directed in the said act.

3. And where the escheator proceeds to a sale of lands under the provisions in the said act, the same shall be sold at public vendue at the courthouse of the county wherein the said land lieth, either by the whole tract, or in such manner as in his opinion will increase the value thereof.

4. This act shall not be construed to repeal any part or parts of the aforesaid act, other than such as are rendered nugatory by the express directions of this act.

5. And whereas no allowance hath been provided by law for the services required to be performed by the several escheators of this commonwealth, and some allowance being adjudged reasonable, *Be it therefore enacted*, That for each inquest taken by any escheator on behalf of this commonwealth, such escheator shall be allowed the sum of five dollars, to be paid out of the fund charged with the payment of the civil list; and that he shall also be allowed a commission of five per cent. on all sums by him received by virtue of his office, and which shall be paid into the public treasury by him.

6. And it is hereby declared to be the duty of the attorney prosecuting for the commonwealth, in any and every county therein, to prosecute such inquest; and such attorney, for his trouble and expense, shall be allowed the sum of five dollars for every inquest and office found he shall attend, to be paid by the auditor of public accounts out of the aggregate fund.

7. This act shall commence and be in force from and after the passing thereof.

CHAP. 11.—An ACT giving further time to the owners of certain surveys to return the plats and certificates thereof into the land office, and a further time to the owners of entries on the western waters to survey the same.

(Passed December 19, 1794.)

Further time allowed for returning surveys on the western waters. On the eastern waters.

1. *Be it enacted by the general assembly*, That the further time of one year from the thirty-first day of December in the present year, shall be allowed the owners of surveys on the western waters, and from the fifteenth day of May last until the thirty-first day of December, one thousand seven hundred and ninety-five, shall be allowed the owners of surveys on the eastern waters for returning all plats and certificates of surveys to the register of the land office, who shall receive the same, and such lands shall not be considered





as forfeited or liable to forfeiture; any law to the contrary notwithstanding.

2. *And be it further enacted*, That the further time of two years, For surveying entries on the western waters. shall be computed from the first day of November last, shall be allowed to the owners of entries on the western waters to survey the same, in such manner as is directed by law.

3. *Provided always*, That nothing contained in this act shall be taken to invalidate any right which shall have been acquired under the laws of this commonwealth previous to the passing of this act. Rights of others saved.

4. *And be it further enacted*, That all surveys founded on land warrants, and which shall not be returned to the register of the land office, and the office fees paid thereon, within the periods aforesaid, shall thereafter be subject to *caveat*, and in all respects proceeded on in the manner prescribed by the act, intituled, "*An act for reducing into one the several acts concerning the land office, ascertaining the terms and manner of granting waste and unappropriated lands, for settling the titles and bounds of lands, directing the mode of processioning, and prescribing the duty of surveyors*;" but nothing in this act contained shall be so construed as to prevent the register of the land office from receiving plats and certificates of survey, founded on land warrants, at any time previous to a *caveat* being entered against the same for such default, and being so returned to the register, and the fees paid thereon, such surveys shall not thereafter be liable to forfeiture on account thereof, although the same may not have been returned within the time prescribed by law. Surveys on land warrants not returned in time, may be *caveated*. But may be received after the time has expired, where no *caveat* is entered.

5. *Be it enacted*, That so much of this act as relates to lands on the eastern waters, shall be so construed as only to authorize the register of the land office to receive plats and certificates of survey made on locations, under the commonwealth's land warrants. This act as to the eastern waters to relate only to surveys on land warrants.

6. This act shall commence and be in force from and after the passing thereof. Commencement.

#### CHAP. 12.—An ACT concerning inspectors of tobacco.

(Passed December 13, 1794.)

1. Whereas it is represented that the tax or duty on tobacco exported in the year one thousand seven hundred and ninety-three, by many of the inspectors at the tobacco warehouses within this state, was not sufficient to pay their salaries, and that a surplus remains of the duties received on tobacco exported in the year one thousand seven hundred and ninety-four, sufficient to discharge the balance of their salaries, which it is judged reasonable to apply to that purpose: Preamble.

2. *Be it therefore enacted*, That it shall and may be lawful for the said inspectors of the several warehouses by whom such surplus may have been received, to retain so much of the surplus money arising from the duty on tobacco exported from the said warehouses in the year one thousand seven hundred and ninety-four, as shall be sufficient to pay the deficiency of their salaries for the year one thousand seven hundred and ninety-three. Inspectors' salaries for 1793, to be made good out of the surplus of 1794.

3. This act shall commence and be in force from and after the passing thereof. Commencement.



## CHAP. 13.—An ACT concerning the register of the land office.

(Passed December 26, 1794.)

When he may appoint two clerks to be paid by the public.

1. *Be it enacted by the general assembly*, That the executive may, if they think it necessary, authorize the register of the land office to appoint two clerks, who shall be allowed an annual salary of one hundred pounds each, to be paid in the same manner as the salaries of the officers of civil government are paid.

Grants to be issued by the register on plats returned in the time of his predecessor.

2. *And be it enacted*, That it shall be the duty of the present register to make out grants on those plats which have been returned to the land office in the time of the former register, and which have lain in the office the time required by law.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

## CHAP. 14.—An ACT to amend the act, to reduce into one the several acts concerning guardians, orphans, committees, infants, masters and apprentices.

(Passed December 12, 1794.)

Testamentary guardians to give bond and security before they exercise any authority over their wards, unless it is otherwise directed by the will.

1. *Be it enacted by the general assembly*, That every guardian appointed by the last will and testament of any person which shall be legally proved and recorded in any court, shall before he exercises any authority over the minor or his estate, appear openly in such court and declare his acceptance of the guardianship, which shall be recorded, and shall give bond with such security as the court may approve of in the same manner as statutory guardians, unless it is otherwise directed by the testator's will, and at the first or second session thereafter, he shall deliver into such court an inventory upon oath of all the estate which he shall have received, and within two successive courts after the receipt of any other estate of the ward, an inventory of such estate, to be entered in the book directed to be kept concerning other guardians; and every testamentary guardian shall exhibit to such court once in every year, which if it be a county or corporation court, shall be in September, or at the next session if there be none in that month, or oftener if specially required by the court, accounts of the produce and profits of the estate of the ward, and of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the court, or by such persons as the court shall refer them to, and being found and certified, or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the court, shall with such certificate or confirmation be recorded in the book aforesaid: And if any article of such accounts at any time afterwards be excepted to by the ward or his representatives, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice on his behalf shall have been given at the time of passing the accounts that such article would be excepted to, and a memorandum of that notice and the exception shall have been entered on record.

When they are to deliver into the court an inventory of their wards' estates, and accounts of their receipts and disbursements.

Their accounts to be examined, and if approved and confirmed to be recorded.

Exceptions there-to how to be made.

When they may be displaced by the court and others appointed.

2. The court aforesaid if a testamentary guardian shall appear to have been guilty of a flagrant abuse of trust, may displace him and appoint some other person or persons under the like rules and regulations as are prescribed by law in cases of statutory guardians.

Court to appoint guardian when the testamentary guardian being sum-

3. Every testamentary guardian who shall fail or neglect to appear before the court in which the last will and testament of his testator shall be proved and recorded, within the space of six





months thereafter, may be summoned and compelled to declare his acceptance or renunciation of the trust, and if every of the guardians appointed in any such last will and testament shall renounce the same, which renunciation shall be recorded, the said court may and shall thereafter proceed to appoint and qualify some other person or persons to the guardianship, in like manner as if no such testamentary guardian had been nominated in such last will and testament.

moned renounces  
the guardianship.

4. A testamentary guardian who shall not deliver in such inventory and render such accounts as aforesaid, shall by order of the court to which he is amenable, be summoned, and if he remain in default, be compelled to perform his duty or be displaced, for which purpose the summons or other process from a county or corporation court may be directed to, and shall be executed by the sheriff of any other county wherein the guardian may be found; and every justice of the court sitting therein at any time during the term or session in which the process ought to have been ordered, if it be not ordered accordingly shall be amerced.

Proceedings  
against testamen-  
tary guardians fail-  
ing to deliver in  
their accounts.

Penalty on the jus-  
tices for neglect.

5. The estate of a testamentary guardian not under a specific lien, shall after the death of the guardian be liable to whatsoever may be due from the guardian to his ward, before any other debt due from such guardian.

On the death of a  
guardian debt due  
to his ward to be  
first paid.

6. If a testator shall omit to direct the sum of money, or the fund to be applied to the maintenance and education of his infant, and if the disbursements of the testamentary guardian, or other guardian being suitable to the estate and circumstances of the ward, shall exceed the profits of his or her estate in any year, the balance with the allowance of the said court may be debited in the account of a succeeding year, and paid out of the personal estate of the infant, and so much and such part thereof may with the approbation of the court, be sold at public auction to the highest bidder, after reasonable notice has been given of the time and place of such sale for that purpose as shall be necessary, and the balance appearing on the contrary side may be put out to interest for the benefit of the ward, upon such security as the court shall direct and approve, or the guardian if it remain in his hands shall account for the interest, to be computed from the time his accounts were or ought to have been passed.

Balance due to the  
guardians for dis-  
bursements, to be  
debited in the ac-  
count of the suc-  
ceeding year, or paid  
out of the infant's  
personal estate.

When and how  
such estate shall  
be sold for that  
purpose.

Balance due to the  
ward, how to be  
disposed of.

7. It shall be lawful for the testamentary guardian provided there be no prohibition in the last will and testament, to make a lease of any lands, tenements, or hereditaments belonging to his ward, reserving the best annual rent and most beneficial covenants for any term, ending when the ward shall arrive to the age of twenty-one years, or continuing beyond that time as the ward shall elect.

Power of testa-  
mentary guardians  
to lease their  
wards' lands.

8. And it shall be lawful for every statutory guardian in like manner to make a lease of any lands, tenements or hereditaments, belonging unto his ward, for any term, so that the same does not exceed that period, when his said ward shall arrive at the age of fourteen years.

Of statutory guar-  
dians.

9. A testamentary guardian if his ward be a trustee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties interested, to the high court of chancery, by order of such court to be made after hearing, may execute any deed, or perform any other act which the trustee or mortgagee if of full age might or could execute or perform, and such deed or

Testamentary  
guardians may by  
order of the court  
of chancery, exe-  
cute such deeds as  
their wards could  
if of age.



other act shall be valid, except that he shall not be bound by a warranty or other covenant contained in the deed.

To have the same power to receive surrenders of leases, and to make others as statutory guardians.

10. A testamentary guardian shall have the power under the same regulations to make or take a surrender of a former lease, and to take or make a new lease as are prescribed and granted to a statutory guardian, unless inconsistent with the last will and testament, subject however to be determined or continued by the ward after he or she arrives to full age.

Courts may in passing guardians' accounts make them a reasonable allowance.

11. It shall be lawful for the court having cognizance of the accounts of any guardian, whether statutory or testamentary, upon passing the same, to make such allowance to the guardian as it shall deem a reasonable compensation for his attention, care and trouble.

Where the court may direct part of an orphan's estate to be sold for his support.

12. Where an orphan shall have an estate, the profits of which are insufficient for his or her support, and yet is of such tender years, that the overseers of the poor cannot prevail upon a proper person to accept of the same orphan as an apprentice, it shall and may be lawful for the guardian or curator, with the approbation of the court, to take from the personal estate of his ward such sums of money as are necessary for the immediate support of the orphan, until he or she shall arrive at an age when the overseers of the poor can find a suitable master or mistress for him or her. The courts of each county respectively shall have full power at their discretion, to direct the overseers of the poor to covenant with the master or mistress of any apprentice bound to serve under their order, that a sum not exceeding twenty dollars shall be paid to the said apprentice, instead of the sum of twelve dollars heretofore allowed by law.

Courts may direct overseers of the poor in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars.

Commencement.

13. This act shall commence and be in force from and after the first day of March next.

CHAP. 15.—An ACT to amend the act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.

(Passed December 3, 1794.)

Preamble.

1. Whereas it is suggested to the general assembly of Virginia, that there is no ordained minister of the gospel in regular communion with any society of christians, or other person residing in either of the counties of Lee or Randolph, authorized to celebrate the rites of matrimony between persons desirous of entering into that state, whereby the inhabitants of the said counties are exposed to great inconvenience, and in many instances to considerable personal danger, as persons desirous of contracting matrimony, are, in order to have the ceremony legally performed, obliged to travel a considerable distance over mountains difficult to pass, and often infested with hostile Indians:

Courts of certain counties to appoint persons to celebrate the rites of matrimony in their respective counties.

2. *Be it therefore enacted by the general assembly of Virginia,* That from and after the passing of this act, it shall and may be lawful for the courts of the said counties to appoint two persons in each of the said counties, who shall be residents within the county from the court whereof they shall have received their appointments, who by virtue of this act shall be authorized to celebrate the rites of marriage wherein they respectively reside.

Persons so appointed, how to be qualified.

3. That every person so appointed, before entering into the execution of his office, shall take the oath of fidelity to the commonwealth, and enter into bond with sufficient security, in the sum of fifteen hundred dollars, payable to the governor for the time being,





and his successors, for the true and faithful performance of his trust, whereupon, such court is hereby required to grant to the person so appointed, a certificate in the following form, given under the hand and seal of the then sitting judge or senior magistrate, and attested by the clerk, to wit: "*This shall certify to all whom it may concern, that at a court held for the county of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord \_\_\_\_\_, A. B. took the oath of fidelity to this commonwealth, and having entered into bond and security, agreeable to an act, intituled, "An act to amend the act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy," is hereby authorized to celebrate within the county of \_\_\_\_\_, the rites of marriage between persons desirous of contracting the same.*" And every testimonial so obtained, shall be considered as a good and sufficient authority to celebrate the rites of marriage within the county from the court whereof the testimonial is obtained, between persons regularly applying therefor.

Form of certificate to be given them.

4. *Provided*, That any person so appointed, shall in no instance celebrate the rites of marriage, until the due publication of bans, or in consequence of a license duly obtained: and if he should celebrate the rites of marriage when forms and provisions of law have been dispensed with, which are necessary to be observed when marriage is celebrated by an ordained minister, he shall be subject to the same penalties as are in such instances inflicted on ordained ministers, recoverable in the manner, and liable to the action of the party aggrieved, as is directed by the act, intituled, "*An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.*"

Not to marry persons without publication of bans, or a license. To be subject to the same penalties for breach of their duty as ordained ministers.

5. And if any person so appointed by the courts aforesaid, or either of them shall die or remove out of the county, it shall be lawful for the said courts or either of them, to appoint some person in lieu of the person so dying or removing, who shall qualify to the performance of his trust in the manner before directed, and shall be subject to the same penalties and actions, and by the same mode of recovery above pointed out.

Removing out of the county, others to be appointed in their stead.

6. *And be it further enacted*, That any person appointed to celebrate the rites of marriage by virtue of this act, shall be entitled to the same fees and liable to the same actions, in case of refusal to celebrate the same between persons legally applying therefor, as are given to or against ordained ministers in similar circumstances by virtue of the above recited act, and that he shall return to the clerk of the county a certificate of every marriage by him celebrated, a record whereof shall be kept by the clerk as is directed by law when the marriage ceremony has been performed by an ordained minister.

To be allowed the same fees as ordained ministers.

To return to the clerks' offices certificates of the marriages celebrated by them.

#### CHAP. 16.—An ACT concerning granting appeals from decrees in chancery.

[Passed November 29, 1794.]

1. *Be it, and it is hereby enacted by the general assembly of the commonwealth of Virginia*, That whensoever any person or persons, body politic or corporate, shall think himself or themselves aggrieved by the decree or final order of any county or corporation court sitting in chancery, in any suit or controversy whatsoever, where the

Mode of obtaining appeals from decrees of the county courts in chancery, to the high court of chancery:





debt or other thing claimed or recovered, exclusive of costs, shall be of the value of thirty-three dollars or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order, such person or persons, body politic or corporate, being a party defendant, may enter an appeal to the high court of chancery from such decree or final order, and before granting any such appeal, the party praying the same being a defendant, or some other responsible person shall enter into bond with sufficient security in a reasonable penalty, with condition to satisfy and pay the amount recovered in the county or other court aforesaid, and all costs, and to perform in all things the said decree or final order in case the same be affirmed.

From decrees of the high court of chancery to the court of appeals.

2. And in like manner and under the like regulations; an appeal may be prayed and granted unto a defendant from any decree or final order of the high court of chancery unto the court of appeals, where the debt or other thing claimed or recovered, exclusive of costs, shall be of the value of one hundred dollars, or three thousand pounds of tobacco, or where land, slaves, or other specific property shall be the subject of the decree or final order.

Commencement.

3. This act shall commence and be in force from the passing thereof, but shall not be construed to extend to any appeals heretofore allowed and granted.

CHAP. 17.—An ACT to amend the act for regulating pilots, and ascertaining their fees.

(Passed December 24, 1794.)

Pilots carried to sea, to receive the same wages as the mate.

1. *Be it enacted by the general assembly*, That every master of a vessel carrying a pilot to sea, shall pay to such pilot the same wages as the mate of such vessel receives.

Pilots hereafter obtaining branches to give bond and security.

2. Every pilot hereafter applying for a branch, shall, previous to obtaining the same, enter into bond, with such security as the commissioners may approve, in the sum of eight hundred dollars.

Pilots residing out of the state, not to act in any boat belonging to this state.

3. No pilot residing in another state shall be allowed to act as a pilot in any boat belonging to this state; and if any such person shall presume to act, he shall be liable to the same penalty for each offence as is imposed by law on such as violate the terms of their branch and respective class, to be recovered in like manner.

Allowance to pilots for each day they attend a vessel at the master's request.

4. Every pilot being requested by the owner or master of a vessel, and attending the same with his boat, shall be allowed and paid the sum of five dollars for each day he shall attend.

Rates of pilotage for ships of war.

5. Every pilot taking charge of any ships of war, shall receive the following prices in lieu of the pilotage heretofore allowed, that is to say: for all ships of war above fifty guns, from Cape Henry to Hampton Road, sixteen dollars; for all ships under fifty and above twenty guns, twelve dollars; from Cape Henry to York town for all ships above fifty guns, twenty dollars; for all ships under fifty guns and above twenty guns, fifteen dollars; from Cape Henry to any river on Mockjack bay, twenty dollars; from the cape to Smith's point on South Patowmac, forty dollars, and the same back again.

One fourth added to the pilotage of certain vessels.

6. Every pilot shall be allowed and paid for the pilotage of any vessel above seventy tons, and coming from sea, one fourth in addition to the sums allowed by law.

Repealing clause.

7. So much of any act or acts as comes within the purview of this act, is hereby repealed.



8. *Provided*, That nothing herein expressed shall affect the rate of pilotage as established by law from the capes to the different places up the Patowmac river, which shall remain as estimated in the law passed in one thousand seven hundred and ninety-two. Exception as to vessels going from the capes up Patowmac.

9. This act shall commence and be in force from and after the first day of March next. Commencement.

CHAP. 18.—An ACT to amend the act, intituled, “An act reducing into one the several acts for punishing persons guilty of certain thefts and forgeries.”

(Passed December 8, 1794.)

1. *Be it enacted by the general assembly*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly act or assist in the false making, forging or counterfeiting any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, or any acquittance or receipt either for money or tobacco, or other valuable thing, or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, or shall utter or publish as true, any false, forged or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note for the payment of money or tobacco, or other valuable thing, acquittance or receipt for money, tobacco, or other valuable thing, with intention to defraud any person or persons whatsoever, or any corporation, knowing the same to be false, forged, or counterfeited, then every such person being thereof legally convicted, shall be deemed guilty of felony, and shall suffer death as a felon without benefit of clergy. Felony without benefit of clergy, to counterfeit or assist in counterfeiting any deed, will, bond, bill, note, acquittance or receipt, or assignment of any bond, bill, &c. Or to utter or publish as true any such counterfeited deed, will, bond, bill, note, &c. or assignment thereof.

2. This act shall commence and be in force from and after the last day of March next. Commencement.

CHAP. 19.—An ACT to amend an act, “Reducing into one the several acts concerning wills, the distribution of intestates’ estates, and the duty of executors and administrators.”

(Passed December 5, 1794.)

1. *Be it enacted by the general assembly*, That if a testator having a child or children born at the time of making and publishing his last will and testament, shall at his death leave a child or children born after the making and publishing of his said last will and testament, the child or children so after born, if such child or children be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father’s estate as such child or children would have been entitled to if the father had died intestate; towards raising which portion the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament, in the same manner as is provided in the case of posthumous children. What portion of the father’s estate shall be allotted to children born after the making of their father’s will, in which they are pretermitted, where they are not provided for by settlement.

2. And whereas by an act, intituled, “An act reducing into one the several acts concerning slaves, free negroes and mulattoes,” it is enacted, “That all negro and mulatto slaves in all courts of judi-





cature within this commonwealth, shall be held, taken and adjudged to be personal estate." And whereas by the act "*Reducing into one the several acts concerning wills, the distribution of intestates' estates, and the duty of executors and administrators,*" it is also enacted, "That executors and administrators, whether it be necessary for payment of debts or not, shall, as soon as convenient after they are qualified, sell at public sale all such goods of their testator or intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping:" And whereas doubts may arise whether as slaves being personal estate, are perishable and liable through age or sickness to be rendered of less value by keeping, executors and administrators are not bound to sell the same whether it be necessary for the payment of debts or not: For declaring the law touching the same, *Be it further enacted,* That executors and administrators shall not sell the slaves of their testators or intestates, unless the other part of the personal estate, regard being had to the privilege of specific legacies, shall not be sufficient for paying the debts and expenses, and in that case such part only of the slaves shall be sold as shall be sufficient to satisfy the debts and expenses, and the residue of the slaves shall be reserved in kind for the legatees or distributees of their testators or intestates respectively.

Executors not to sell their testator's slaves for payment of debts, unless the other personal estate is insufficient.

Commencement.

3. This act shall commence and be in force from the passing thereof.

CHAP. 20.—An ACT to repeal the third section of an act, intituled, "An act to ascertain the mode of obtaining grants to certain lands on the western waters."

(Passed December 25, 1794.)

The section repealed recited.

1. *Be it enacted by the present general assembly,* That all that part of the third section of an act, intituled, "*An act to ascertain the mode of obtaining grants to certain lands on the western waters,*" passed in the year one thousand seven hundred and eighty-three, and is in the words following, viz: "That for all arrearages which shall be due and have been previously demanded by the said companies or their agents, on or before the twenty-fifth day of December, in the year of our Lord one thousand seven hundred and eighty-four, previous to which no distress shall be made, the sheriff of the counties wherein such lands lie, the price of which may be due, at the request of the different companies or their agents, may and are hereby directed to lay off in a compact body so much of the said land, to be pointed out by the tenant or proprietor, as shall be the value of such debt, and shall proceed to sell the same, charging the debtor with the usual commission thereon, and the expense of surveying such dividend or quantity of land, provided that he gives thirty days public notice of the time and place of such sale," shall be, and the same is hereby repealed.

None of the lands held under the grants to be forfeited for non-payment of the purchase money. Commencement.

2. *And be it further enacted,* That no forfeiture of lands held under any of the grants shall take place in case of nonpayment.

3. This act shall commence and be in force from and after the passing thereof.



CHAP. 21.—An ACT to amend the act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue.

(Passed December 19, 1794.)

1. Whereas, by the twenty-ninth section of the act, intituled, *Preamble. "An act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue,"* it is enacted in the words following to wit: "No sheriff or collector shall be allowed to distrain for any taxes after two years from the time the taxes became due, except sheriff's appointed prior to the year one thousand seven hundred and ninety-two, who shall have the power of distraining for the taxes now due for the term of eighteen months from the passing of this act: *Provided nevertheless,* That no sheriff or collector shall be allowed to distrain for such arrearages until he shall have entered into bond, with sufficient security to be approved of by such court, to pay and satisfy all such damages and costs as may be recovered against him for any abuse of the power hereby vested in him:" And whereas, by the fortieth section of the said act the same was declared to commence in force from and after the passing thereof, to wit: the thirteenth day of December, in the year of our Lord one thousand seven hundred and ninety-two: And whereas, by one other act, passed on the twenty-eighth day of December, in the year one thousand seven hundred and ninety-two, intituled, "*An act declaring what acts of the present session shall be immediately in force, and to suspend the operation of all other acts of the present session, which are of a public and permanent nature,*" the operation of the act first aforesaid was suspended until the first day of October, in the year of our Lord one thousand seven hundred and ninety-three, by reason whereof doubts have arisen from what period the aforesaid term of eighteen months was to be accounted to commence: For remedying whereof, and to give to the said sheriff's appointed prior to the year one thousand seven hundred and ninety-two, the full benefit intended by the said act:

2. *Be it enacted and declared,* That the said term of eighteen months within which they may have power of distraining for the taxes then due under the regulations of the said act, shall be held to have commenced from and after the said first day of October, one thousand seven hundred and ninety-three, and not sooner: *And be it further enacted,* That the further time of six months from the expiration of the said term of eighteen months, shall be allowed the said sheriff's for completing their collections under the regulations and provisions of the said recited act:

Time allowed by law to sheriff's appointed prior to the year 1793, to collect their arrearages extended.

3. Whereas doubts have arisen whether the lands on which no taxes are paid for the space of three years do not become forfeited to the commonwealth under the thirty-fifth section of the aforesaid act, although the returns directed to be made by the sheriff's or collectors, and the notice to be thereupon given by the treasurer, as prescribed by the thirty-fourth section of the said act, have not been made nor given: For a plain declaration of the law, *Be it therefore enacted,* That no lands shall be deemed to have been forfeited to the commonwealth, unless the returns and notice have been made and given agreeably to the said thirty-fourth section, nor shall any land become forfeited to the commonwealth for the non-payment of taxes for the space of three years, unless the returns

No lands to be deemed forfeited for nonpayment of taxes, unless the returns and notices required by law have been made and given.





and notice prescribed by the thirty-fourth section shall be made and given.

Saving clause.

4. *Provided always*, That nothing contained in this act shall affect any legal right acquired by any person or body corporate other than that of the commonwealth.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 22.—An ACT concerning appointments to civil offices.

(Passed November 24, 1794.)

1. *Be it enacted by the general assembly*, That no senator or delegate, shall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which shall have been created, or the emoluments whereof shall have been increased or decreased during such time.

Commencement.

2. This act shall be in force from and after the passing hereof.

CHAP. 23.—An ACT concerning certain taxes due in the county of Washington.

(Passed December 18, 1794.)

Preamble.

1. Whereas it hath been represented that Thomas Mitchell was in the month of August last, appointed by the executive, collector of the revenue taxes due in the county of Washington, for the years one thousand seven hundred and eighty-two, one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, and application hath been made to allow the said Thomas Mitchell a longer time to make the said collection than is prescribed by law for collecting and paying the revenue tax, which is judged reasonable and expedient :

When the collector of the taxes due for certain years in the said county is to collect and account for the same.

2. *Be it therefore enacted by the general assembly*, That the said Thomas Mitchell shall be allowed until the first day of August next, to collect and pay into the public treasury the taxes due in the said county, for the year one thousand seven hundred and eighty-two, until the first day of August, one thousand seven hundred and ninety-six, to pay the taxes due for the year one thousand seven hundred and eighty-three, and until the first day of August, one thousand seven hundred and ninety-seven, to pay the residue of the said taxes; any law to the contrary, or seeming to the contrary thereof notwithstanding.

When he may distrain therefor.

3. *Provided always*, That the said Thomas Mitchell shall in no wise be permitted to distrain for the said taxes of one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, until the first day of February in each year preceding the period at which a payment is by this act required to be made into the public treasury.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 24.—An ACT to empower the president of the United States to purchase a tract of land within this state, for the purpose of erecting a public arsenal thereon.

(Passed November 28, 1794.)

1. *Be it enacted by the general assembly of the commonwealth of Virginia*, That it shall and may be lawful for the president of the United States, or any person by him appointed for that purpose, to





purchase within the limits of this state a quantity of land, not exceeding six hundred and forty acres, for the use of the United States, for the purpose of erecting a magazine and arsenal thereon.

2. This act to commence and be in force from and after the passing thereof.

CHAP. 25.—An ACT for the support of the marine hospital.

(Passed December 25, 1794.)

1. *Be it enacted by the general assembly*, That a tax of thirty cents shall be, and is hereby imposed on every sailor, to be paid by the captain, master or owner of the vessel on her return from a voyage at the time of making entry of such vessel.

Taxes imposed on all sailors coming into the ports of this commonwealth.

2. Every captain, master or owner of a vessel, on his return from a voyage, shall, at the time of entering his vessel, give in upon oath to the collector a list of the names of sailors in his vessel, and moreover pay down the tax hereby imposed, to be by him deducted out of their wages. If the captain, master or owner shall fail to give in such list, he shall forfeit and pay the sum of forty dollars, to be recovered by the collector with costs, on motion in any court of record in this commonwealth, provided the party has ten days previous notice of such motion. If the captain, master or owner of any vessel shall fail to pay down the amount of the tax as aforesaid, it shall be lawful for the collector, and he is hereby required to recover the same by warrant before a magistrate, where the sum doth not exceed five dollars, and where it exceeds that sum, by motion as before directed in case of failure to give in a list.

When and how to be collected.

3. Every collector in this commonwealth, on or before the first day of March next, shall enter into bond with sufficient security in the court of the county where he resides, in the penalty of four thousand dollars, payable to the governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act. Every collector shall render such account quarterly to the treasurer of the commonwealth, and pay to him the money he shall have received by virtue of this act, deducting a commission of two and an half for his trouble in collecting and paying the same, and on failure thereof, such collector shall forfeit and pay the sum of eight hundred dollars, to be recovered by the treasurer in any court of record in this commonwealth, by motion, provided the collector has ten days previous notice of such motion.

Collectors to give bond and security for collecting and accounting for the said tax.

4. All monies received by the treasurer in virtue of this act, shall be applied under the direction of the executive towards finishing and supporting the marine hospital in the town of Washington, in the county of Norfolk: *Provided*, That no seaman or mariner whatever, who shall arrive in any port of this commonwealth, (other than into the ports on James, York, Rappahannock and Elizabeth rivers,) shall be considered as coming within the purview of this act. Any thing herein contained to the contrary notwithstanding.

To render accounts thereof quarterly to the treasurer. Their commissions.

Money received by virtue of this act to be applied to the support of the marine hospital in Washington, in Norfolk county. Ports in which the tax is payable.

CHAP. 26.—An ACT for establishing a mutual assurance society against fire on buildings in this state.

(Passed December 22, 1794.)

1. Whereas from the great and frequent losses sustained by the ravages of fire, it is advised expedient to adopt some mode to alleviate the calamities of the unfortunate, who may suffer by that

Preamble.



destructive element, and William Frederick Ast, of the city of Richmond, having suggested and submitted to the consideration of the general assembly a plan of mutual assurance, (the title whereof is "The mutual assurance society on buildings against fire of the state of Virginia," which it is conceived will fully answer the above purposes :

Assurance society  
established.  
Its name.  
Principles of in-  
surance.

Where and under  
whose direction  
the subscriptions  
shall be opened.

When a certain  
sum is subscribed,  
subscribers to  
meet in Richmond  
and form rules for  
the society.

And choose  
agents.

And thenceforth  
to be a body  
politic.

2. *Be it therefore enacted*, That an assurance be established, to be called and known by the name of "*The mutual assurance society against fire on buildings of the state of Virginia*," the principles whereof shall be, "that the citizens of this state may insure their buildings against the losses and damages occasioned accidentally by fire, and that the insured pay the losses and expenses, each his share according to the sum insured." And that subscriptions be opened in the different parts of this state, where it may be thought necessary, under the direction of Thomas Newton, junior, and James Morris, at Norfolk; Archibald Richardson and John Driver, at Suffolk; Robert Andrews and Robert Greenhow, at Williamsburg; John Jeffers, Alexander M'Rae and John Osborne, at Petersburg; Worlich Westwood and George Hope, at Hampton; John Harvie, Robert Mitchell, Andrew Dunscumb and William F. Ast, at Richmond; Fontaine Maury and Robert Patton, at Fredericksburg; William Hartshorne and Robert T. Hoe, at Alexandria; Archibald Magill and Abraham Neille, at Winchester; Alexander St. Clair and Robert Grattan, at Staunton; Henry Bowyer, Thomas Madison and John Miller, at Fincastle; William Norvell and Sackville King, at Lynchburg; John Caruthers and William Lyle, at Lexington; William Reynolds, William Cary and Abraham Archer, at York; James Penn and Thomas Read, at New London; James Muschitt and Alexander Henderson, at Dumfries; Alexander Smyth and John Montgomery, of Wythe; James Miller and John Hipkins, at Port Royal; John Quinn and John Otee, of Liberty; Robert Dunbar and Daniel Triplett, Falmouth; William White and Caleb Boush, Kempsville; Thomas Bell and Robert Jouitt, at Charlottesville; and David Hunter and Moses Hunter, at Martinsburg, in the county of Berkeley. As soon as the sum subscribed for shall amount to three millions of dollars or upwards, notice shall be given in the Virginia gazettes, and a day fixed upon for the meeting of the subscribers, who shall then either attend in person or by representatives in the city of Richmond, to examine the aforesaid system of a mutual assurance, proposed by the said William Frederick Ast, and conclude upon such rules and regulations as they or a majority of them may think best, which shall be signed by any twelve of them chosen for that purpose, and that the same shall then be binding on all those who shall insure their property in the said assurance society.

3. And as soon as they have agreed upon such rules and regulations, they shall proceed to elect, by a majority of the votes of the subscribers present, agents for the management of the business of the said society, and thenceforth they shall be considered as a body politic incorporated by this act, under the denomination aforesaid, and by that name shall have succession, and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity in this commonwealth or elsewhere, and may buy and sell, do and execute every other thing relative to the society. But none of the subscribers or their agents





shall be sued individually for any thing that relates to the assurance society in general. In case of law suits or any other business, application shall be made to the agents, and they shall appear and act for and in behalf of the society.

None of the subscribers or the agents to be sued individually.

4. The society, or a majority of them, shall be at liberty from time to time to alter and amend the rules and regulations as they may judge necessary.

The majority of the society may change the rules thereof.

5. They shall agree upon certain premiums to be paid by the persons who shall have their property insured, at the time of such insurance, which shall be deposited and kept as a fund for the purpose of making immediate reparation to such persons as may sustain losses or damages by fire after proof that the fire actually happened, unless it be proved that the proprietor of the buildings insured did wilfully occasion the fire directly or indirectly.

Premiums for insurance, by whom to be fixed. To be kept as a fund for paying for losses by fire.

6. If the funds should not be sufficient, a repartition among the whole of the persons insured shall be made, and each shall pay on demand of the cashier, his, her or their share, according to the sum insured, and the rate of hazard at which the building stands, agreeable to the rate of the premiums; for which purpose it is hereby declared that the subscribers, as soon as they shall insure their property in the assurance society aforesaid, do mutually for themselves, their heirs, executors, administrators and assigns, engage their property insured (but none other) as security, and subject the same to be sold, if necessary, for the payment of such quotas.

When the fund is deficient, the losses to be made good by the subscribers, and the property insured pledged therefor.

7. That these quotas shall always be so rated as to raise and keep up a fund, so that the interest thereof may be deemed by the president and directors (to be elected by the said society) sufficient to pay the annual losses and expenses. If such quotas are found necessary, the president is to publish in the public newspapers how much the quota is of each rate of hazard per every hundred dollars, whereupon the insured shall pay the same on application to the cashier in whose office the property is insured. Whensoever any person or persons shall neglect to pay such quotas, the assurance to him made shall cease and discontinue from the day on which they became due until paid.

How their respective quotas are to be ascertained and collected.

8. To the end that purchasers or mortgagees of any property insured by virtue of this act, may not become losers thereby, the subscribers selling, mortgaging, or otherwise transferring such property, shall at the time apprise the purchaser or mortgagee of such assurance, and endorse to him or them the policy thereof. And in every case of such change, the purchaser or mortgagee shall be considered as a subscriber in the room of the original, and the property so sold, mortgaged, or otherwise transferred, shall still remain liable for payment of the quotas in the same manner as if the right thereof had remained in the original owner.

Insured failing to pay, to lose his insurance until he does.

Policies to be assigned to purchasers and mortgagees who are to stand in the room of the original subscribers.

9. As an encouragement and compensation to the said William Frederick Ast, for forming, suggesting and publishing the before-mentioned useful plan of mutual assurance, *Be it further enacted*, That he shall be entitled to have and receive annually, one cent for every hundred dollars that are or may be insured as aforesaid, to be paid him at the end of every three months, as the same become due, out of the funds of the said mutual assurance society, as a yearly stipend, and for which, if required by the insured, he is by himself or agent to perform faithfully the duty (which can reasonably be done by one person) of such office of the said society as he

Compensation to Wm. F. Ast, author of the plan.

Society may require him to perform such office as they may appoint him to.



may be appointed to by the same, and the emolument hereby allowed shall not in any manner be diminished during his good and faithful behavior.

How subscribers  
may be compelled  
to pay the pre-  
miums.

10. The subscribers in default of paying the premiums at the times fixed therefor, shall, on request of the cashier, be compelled to pay the same with six per cent. interest thereon to the day of payment, and their property shall be liable to be sold for the same as aforesaid.

Commencement.

11. This act shall commence and be in force from and after the passing thereof.

CHAP. 27.—An ACT for altering the place of holding courts in the county of Caroline.

(Passed December 9, 1794.)

The court to be  
held hereafter at  
the Bowling Green.

1. *Be it enacted by the general assembly*, That from and after the first day of February next, a court for the county of Caroline shall be constantly held at the place called and known by the name of the Bowling Green, in the said county, instead of the place heretofore appointed by law. So much of any act as comes within the purview of this act is hereby repealed.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 28.—An ACT for altering the court days and quarterly sessions of certain counties.

(Passed December 12, 1794.)

Hampshire.

1. *Be it enacted by the general assembly*, That from and after the first day of February next, a court for the county of Hampshire shall be held by the justices thereof on the Monday next after the second Tuesday in every month.

Hardy.

2. That a court for the county of Hardy shall be held by the justices thereof on the Wednesday next after the second Tuesday in every month.

Northampton.

3. That a court for the county of Northampton shall be held on the second Monday in every month.

Westmoreland.

4. That a court for the county of Westmoreland shall be held on the fourth Monday in every month.

Albemarle.

5. That a court for the county of Albemarle shall be held on the first Monday in every month.

Alexandria.

6. That a court of hustings, in the town of Alexandria, shall be held on the Friday after the third Monday in every month.

Berkeley.

7. And that a court for the county of Berkeley shall be held on the Monday next after the third Tuesday, instead of the days appointed by law for holding courts in the said counties and town respectively.

Certain quarterly  
sessions in West-  
moreland and  
Alexandria  
changed.

8. That a court of quarterly session shall be held in the said county of Westmoreland in the months of February, July and October annually, instead of the months of March, August and November; and a court of quarterly session for the said town of Alexandria, shall be held in the months of March, June, August and November, annually.

Repealing clause.

9. So much of any act as comes within the meaning of this act is hereby repealed.

Commencement.

10. This act shall commence and be in force from and after the first day of February next.





CHAP. 29.—An ACT repealing the act authorizing and directing the courts of the counties of Hampshire and Hardy to levy a sum of money for the purpose therein mentioned.

[Passed December 2, 1794.]

1. *Be it enacted by the general assembly*, That the act passed in the year one thousand seven hundred and ninety-two, intituled, *"An act authorizing and directing the courts of the counties of Hampshire and Hardy to levy a sum of money for the purpose therein mentioned,"* shall be, and the same is hereby repealed. Act of 1792 repealed.

2. This act shall commence and be in force from and after the Commencement passing thereof.

CHAP. 30.—An ACT to establish an inspection of flour at Urbanna.

(Passed December 12, 1794.)

*Be it enacted*, That an inspector of flour shall be appointed at Urbanna, in the county of Middlesex, under the like rules, regulations, penalties and forfeitures, and recovered and applied in manner directed and prescribed by the act, intituled, *"An act reducing into one the several acts for regulating the inspection of flour and bread."*

CHAP. 31.—An ACT for selling the glebe land of the parish of Tillotson, in the county of Buckingham.

[Passed December 9, 1794.]

1. Whereas it hath been represented that it would be of great utility to the county of Buckingham, to dispose of the glebe land of the parish of Tillotson, in the said county, and application hath been made to the present general assembly for that purpose: Preamble.

2. *Be it therefore enacted*, That John Radford, Josias Jones, William Purkins, Thomas Moseley, and Samuel Allen, gentlemen, or any three of them, be, and they are hereby appointed commissioners, with full power, and they are accordingly directed to dispose of the tract of land and its appurtenances by law appropriated as a glebe for the aforesaid parish of Tillotson, to the highest bidder, on twelve months credit, the purchaser to give bond with security to be approved of by the commissioners, upon giving two months previous notice in the Virginia gazette of the time and place appointed for the sale thereof, and that the money arising from such sale be by the said commissioners, or any three of them, applied when received for the benefit and to the use of the parish of Tillotson, by the direction of the overseers of the poor of the said parish. Commissioners appointed to sell the glebe lands.

3. This act shall commence and be in force from and after the Commencement passing thereof. Purchase money how to be applied.

CHAP. 32.—An ACT for appointing commissioners to superintend the opening a road from Elk river in Kanawha county, to the mouth of the Great Kanawha river.

[Passed December 19, 1794.]

1. Whereas it has been represented to the present general assembly, that in the year one thousand seven hundred and eighty-eight, an act passed the legislature of Virginia, appointing commissioners to superintend the cutting and clearing a road from the end of the state road in the county of Kanawha, to Lexington, in Fayette county: And whereas it appears by the said recited act, that fifteen Preamble.





hundred pounds of the taxes due from the county of Kanawha were appropriated to opening the said road as far as Great Sandy river, from which place (in the said recited act) commissioners in the district of Kentucky were appointed to carry on the said road to Lexington in the said district of Kentucky: And whereas it further appears that since Kentucky became a separate state, they have refused to clear any part of the said road:

Commissioners appointed.

Their duties and powers.

2. *Be it therefore enacted by the present general assembly, That* Thomas Lewis, Leonard Cooper, William Clendinen, John Morris, senior, George Alderson, Leonard Morris, John Jones, Reuben Slaughter, John Vanbibber, Abraham Beaker, and George Clendinen, gentlemen, or a majority of them, be, and they are hereby appointed commissioners, who after having severally taken an oath before the court of the said county of Kanawha, and entered into bond with sufficient security, in the penal sum of three thousand pounds, payable to the Governor and his successors, for the use of the commonwealth, for the due, faithful, and impartial execution of the duties of their office, do appoint a time and place of meeting, giving two months previous notice thereof by advertisement at the door of the courthouse of the said county of Kanawha, do then and there proceed to let to the lowest bidder, the opening a waggon road at least twenty feet wide, from the mouth of Elk river in Kanawha county, to the mouth of Great Kanawha river in the said county, to be finished and completed in two years, taking bond with sufficient security of the undertaker or undertakers for the due and faithful execution of the said work in the term aforesaid, which bond shall be payable to the said commissioners.

Undertaker may contract with the inhabitants of Kanawha for labour and supplies; and his certificates therefor to be received in payment of arrears of taxes.

3. The undertakers shall have power to contract with any person or persons, inhabitants within the said county of Kanawha, for personal labour or supplies necessary for carrying on the said work, and shall give certificates to the persons so contributing, to the amount of whatever they may have furnished, which certificate when countersigned by one or more of the said commissioners, the sheriff of the said county of Kanawha shall receive from the holder thereof, and the said sheriff shall be allowed a credit for all such certificates by him received at the treasury of this commonwealth, in the settlement of the arrears of taxes due from the said county: *Provided always, and be it further enacted, That* the said commissioners shall furnish the auditor of public accounts with a transcript of their book of accounts, before any certificates shall be allowed to the said sheriff in settlement of his accounts; and no certificates shall be allowed unless countersigned as aforesaid, and entered in the transcript sent by the said commissioners to the auditor of public accounts.

All proceedings against the sheriff for the arrears, suspended until December 1796.

4. All proceedings against the sheriff of the said county of Kanawha, respecting the said arrears of taxes (except as hereafter excepted) shall be stayed until the twentieth day of December, in the year one thousand seven hundred and ninety-six.

Where the taxes are not paid as aforesaid, the same to be collected by the sheriff and paid to the commissioners.

5. Every person in the said county of Kanawha, failing to contribute so much to the opening the said road as will be sufficient to discharge his arrears of taxes, on or before the twentieth day of December, in the year one thousand seven hundred and ninety-five, it shall and may be lawful for the sheriff of the said county of Kanawha, to collect and distrain for the same, and pay the amount thereof to the commissioners, within two months thereafter, and on



failure so to do, the said commissioners may obtain a judgment against him in the court of the said county of Kanawha, provided he has ten days previous notice of such motion: *Provided also*, That the amount of the certificates so granted pursuant to this act, shall not exceed the sum of fifteen hundred pounds, nor shall the sheriff be allowed a credit for a greater sum.

Certificates to be granted pursuant to this act not to exceed £1500.

6. The clerk of the said county of Kanawha, shall transmit to the executive, a copy of the bond given, and oath taken by the said commissioners, within six months, under the penalty of one hundred pounds, to be recovered by action of debt or information in any court of record, to the use of the person who may sue for the same.

Copy of the commissioners' bond, &c. to be transmitted to the executive.

7. *Provided also, and be it further enacted*, That so much of the said fifteen hundred pounds as may appear to have been necessarily expended by the former commissioners, in cutting and making the aforesaid road to Great Sandy river, shall be by the commissioners appointed by this act, paid to the individuals entitled thereto; and also the further sum of one hundred pounds out of the said sum, be by the said commissioners applied to the cutting and clearing a waggon road from the upper ford of Gauly, on the north side thereof, to the lower ford of the said river through the narrows. Any law to the contrary notwithstanding.

Part of the said £1500 to be applied to pay for the work heretofore done; and part for opening a road from the upper ford to the lower ford on Gauly river.

CHAP. 33.—An ACT for repairing the road over the Blue Ridge at Swift run gap in the county of Rockingham.

(Passed December 10, 1794.)

1. Whereas it hath been represented, that the road over the Blue Ridge at Swift run gap in the county of Rockingham, cannot be kept in repair in the ordinary way prescribed by law:

Preamble.

2. *Be it therefore enacted by the general assembly*, That the court of the said county of Rockingham shall be, and it is hereby empowered and required, annually to appoint such persons as shall be judged most proper as commissioners, for contracting with some person or persons upon the best terms that can be obtained, for repairing and keeping in repair for one year the road over the Blue Ridge, at the pass called Swift run, from the plantation of Peter Hershmond, in the said county of Rockingham, to the plantation of Daniel Wolford, in the county of Orange.

Court of Rockingham annually to appoint persons to contract for keeping the road in repair.

3. The person or persons annually undertaking the said road, shall enter into bond with sufficient security, payable to the justices of the said court and their successors, in double the sum the same is undertaken for, with condition for the due and faithful performance of the said agreement.

Undertaker to give bond and security.

4. The expense of repairing and keeping in repair the said road shall annually be levied by the court on the taxable property in the said county, to be collected and accounted for in like manner as is prescribed by law for collecting and accounting for county levies: *Provided always*, That such levy shall not annually exceed five hundred dollars.

Expense thereof how to be defrayed.

5. This act shall commence and be in force from and after the passing thereof.

Commencement.





CHAP. 34.—An ACT to continue an act, intituled, “An act to empower the justices of Greenbrier and Kanawha, to levy a tax on the tithables within their respective counties, sufficient to repair the state road leading from Lewisburg to the falls of the Great Kanawha.”

(Passed December 22, 1794.)

Preamble.

1. Whereas an act, intituled, “*An act to empower the justices of Greenbrier and Kanawha, to levy a tax on the tithables within their respective counties, sufficient to repair the state road leading from Lewisburg to the falls of the Great Kanawha,*” will expire during the present session, and it is judged expedient to continue the same:

Act continued in force for three years.

2. *Be it therefore enacted by the general assembly,* That the said act shall continue and be in force for and during the term of three years, from and after the passing of this act.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 35.—An ACT for opening a waggon road from the Blockhouse in Washington, to the Cumberland mountain in the county of Lee.

(Passed December 18, 1794.)

Commissioners appointed.

1. *Be it enacted by the general assembly,* That Charles Cocke, Benjamin Sharp, William Erving, William Neel and Frederick Jones, gentlemen, or any three of them, be, and they are hereby empowered and required to contract and agree with such person or persons as they may judge most proper for opening and clearing a waggon road from Big Moccasin gap to Benedict Eries, in the county of Lee, as the same hath been marked out by the commissioners appointed by an act of assembly, passed in the year one thousand seven hundred and ninety-two, intituled, “*An act to facilitate the intercourse of the inhabitants of this commonwealth with the state of Kentucky.*”

The undertakers to give bond and security for the due performance of the work.

2. The person or persons undertaking the said work, shall give bond with sufficient security in the penalty of two thousand dollars, payable to the said commissioners, or the survivors or survivor of them, with condition for the due and faithful opening and clearing a waggon road to and from the places aforesaid, within the time limited by the contract for that purpose.

Certain taxes and arrears of taxes (not exceeding 1000 dollars) appropriated to the purpose.

3. The revenue tax to be collected in the counties of Russell and Lee for the years one thousand seven hundred and ninety-four, and one thousand seven hundred and ninety-five, as also the revenue tax due and in arrear from Russell county, for the year one thousand seven hundred and ninety-three, (provided the money appropriated as aforesaid shall not exceed one thousand dollars) shall be, and the same is hereby appropriated for the purpose of defraying the expense of opening the said road, provided the sum allowed by law to the commissioners of the land tax in each county aforesaid, shall be first paid out of the said revenue taxes to be due in the years one thousand seven hundred and ninety-four, and one thousand seven hundred and ninety-five.

Allowances to the commissioners of the revenue to be first paid.

4. The sheriff or collector of the said taxes shall pay the amount thereof to the said commissioners, or one of them, at the time fixed by law for paying the same into the public treasury, for which the commissioner shall give to the sheriff or collector a receipt. If the sheriff or collector shall fail or neglect to pay the said taxes at the time they become due, it shall be lawful for the said commissioners, or the survivors or survivor of them, to obtain a judgment or judg-

The sheriffs and collectors to pay the said taxes to the commissioners.



ments against the sheriff or collector and his securities, or either of them, for the taxes so as aforesaid appropriated, or any balance thereof, by motion in any court of record within this commonwealth, and to obtain executions for the same in like manner, and under the same rules and regulations as are prescribed in the case of executions issued in behalf of the commonwealth: *Provided always*, That the sheriff or collector or his securities, shall have ten days previous notice in writing of every such motion.

5. The commissioners shall give bond and security payable to the governor and his successors, before the court of the county of Lee, faithfully to account for and pay all such sums of money as come to their hands by virtue of this act, to the person or persons who shall undertake and clear the said road, according to the contract made for that purpose.

Commissioners to give bond and security to account for and pay to the undertakers the money they receive.

CHAP. 36.—An ACT for altering the boundary line of the county of Grayson.

(Passed December 12, 1791.)

1. *Be it enacted by the general assembly*, That the county of Grayson shall be bounded as followeth, to wit: Beginning on the top of the Iron mountain where the line of the county of Washington strikes the same; thence along the top thereof to where the spur or ridge which divides the waters of Brush creek from those of Cripple creek leaves the main mountain; thence along the top of the said ridge to the highest knob thereof near George Ewing's, called Ewing's mountain; thence a direct course to the north corner of the land of Philip Gaines; thence with his line to where it intersects the present line of Grayson; thence to Ross's mill; thence to the top of Poplar camp mountain and Jennings's mountain to the lines of Montgomery, Patrick and North Carolina, to the top of the Iron mountain, and along the said mountain to the beginning.

Boundaries of the county.

2. So much of any act as comes within the meaning of this act, Repealing clause, is hereby repealed.

3. This act shall commence in force from the passing thereof. Commencement.

CHAP. 37.—An ACT granting to the college of Hampden Sydney, certain lands whereof Robert Routledge died seized.

(Passed December 11, 1794.)

1. Whereas it is represented that a certain Robert Routledge, late of Prince Edward county, died intestate and without heirs, seized of several tracts of land lying in the said county, containing about twelve hundred and seventy-two acres, more or less, which have escheated to the commonwealth, and that it would be of great utility to the public to grant the same to the college of Hampden Sydney, as it will promote and encourage the education of youth:

Preamble.

2. *Be it therefore enacted by the general assembly*, That the aforesaid several tracts of land, to wit: one tract conveyed to the said Robert Routledge in his lifetime by Henry Haynes, containing two hundred and eighteen acres, lying on the south side of Appomattox river; one other tract containing two hundred acres, conveyed to the same by Daverix Jarratt and Elizabeth his wife; one other tract containing five hundred acres, conveyed to the same by Robert Williamson; and one other tract containing three hundred and fifty-four acres, lying on the south side of the aforesaid river, conveyed to the same by Marvel Stone, which are bounded as expressive in

Certain lands whereof Robert Routledge died seized, and which have escheated to the commonwealth, vested in the academy.





the deeds made and executed for the same, (and now of record in the court of Prince Edward county) shall be, and the same are hereby vested in the president and trustees of the college of Hampden Sydney, to be by them and their successors held in trust to and for the use and benefit of the said college.

Court of Prince Edward to appoint commissioners to lay off part of the said land for Charles Gray and his wife during their lives.

3. And whereas it has been represented that a certain Charles Gray has for many years past resided upon a part of the said lands, under a contract made with James Pleasants, administrator of the said Robert Routledge, deceased, and made sundry improvements thereon: *Be it further enacted*, That the court of the county aforesaid, shall be, and they are hereby authorized and directed to appoint one or more commissioners to lay off to the said Charles Gray and his present wife, during their natural lives, one hundred acres of the aforesaid land, including the plantation on which they now reside.

Saving clause.

4. Saving to all persons other than those claiming under the commonwealth, all the right, title, and interest which they may have in or to the said lands.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 38.—An ACT to incorporate the trustees of Martinsville academy, in the county of Henry.

(Passed December 9, 1794.)

Preamble.

1. Whereas application hath been made to this assembly, to pass an act for appointing trustees to an academy already built adjoining the town of Martinsville, in the county of Henry, and to incorporate the same, and it being the interest of free governments to promote the diffusion of knowledge among its citizens:

Trustees appointed and incorporated.

2. *Be it therefore enacted*, That George Hairston, George Waller, John Dillard, Archelaus Hughes, Abraham Penn, Hugh Innes, Peter Saunders, Samuel Calland, Henry Lync, Joseph Anthony, George Penn, Charles Foster, Joseph Stovall, Joseph Martin, and John Redd, gentlemen, shall be, and they are hereby constituted a body politic and corporate, by the name of "The Trustees of Martinsville Academy," and by that name shall have perpetual succession and a common seal. The said trustees and their successors

Their powers and duties.

by the name aforesaid shall be capable in law to purchase, receive and hold to them and their successors forever, any lands, tenements, rents, goods or chattels of what kind soever, which shall be given or devised to or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy. The said trustees by the name aforesaid may sue and be sued, implead and be impleaded in any court of law or equity. They shall have power from time to time to establish such bye laws, rules and ordinances, not contrary to the constitution and laws of this commonwealth, as they shall deem necessary for the government of the said academy. Not less than seven of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government, or support of the said academy, and no real estate belonging to the same shall be disposed of unless a majority of the said trustees shall concur in opinion thereon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trus-

How many to constitute a board, and how many may dispose of the estate belonging to the academy.

Vacancies, how supplied.





tees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy and property delivered to his care, and pay or deliver the same to the order of the said trustees: and before he enters on the execution of the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will when required by the said trustees render to them a true account of all monies, goods and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed by the trustees. If the treasurer shall fail to render when required a just and true account of all monies, goods and chattels which may come to his hands by virtue of his office, and also all expenditures for or to the said academy, he shall on such failure be subject to a judgment on motion in any court of record in this commonwealth, and execution may thereupon be awarded in like manner as against sheriffs for the nonpayment of public taxes.

Treasurer to be appointed.

Mode of proceeding against a delinquent treasurer.

3. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 39.—An ACT authorizing the sale of certain lots or parcels of lands in the town of Romney, and for other purposes therein mentioned.

(Passed December 27, 1794.)

1. Whereas it is represented, that it is uncertain and unknown to whom many lots or parcels of land in the town of Romney, in the county of Hampshire, legally belong, and in consequence thereof certain improvements which otherwise would be made therein are greatly impeded: Preamble.

2. Be it therefore enacted by the general assembly, That all of the lots or parcels of land lying and being in the said town of Romney, for which the late lord Fairfax hath made no deeds, shall be, and the same are hereby vested in the trustees of the said town, appointed by an act of assembly, passed in the year one thousand seven hundred and eighty-nine, intituled, "*An act for appointing trustees to the town of Romney, in the county of Hampshire,*" to be by them or a majority of them valued and conveyed to the several persons who now claim the same by prior right of possession for the value thereof without the improvements thereon; in ascertaining which the said trustees or a majority of them shall judge of their value and situation, and the titles derived by any such sales shall be, and are hereby declared to be valid in law.

3. The monies arising from such sales shall by the said trustees be paid into the treasury of Virginia, to go in aid of the public tax, and the executive shall be authorized on application of any person making out a title to the said land, to direct the auditor to issue a warrant, payable out of any money in the treasury to the applicant, he giving bond with approved security, to refund the same to any person who may thereafter produce a better title: *Provided*, That nothing in this act contained shall be construed to affect the right or title of the commonwealth to the said land; and the trustees shall in all cases reserve the same ground rent as stipulated in the deeds heretofore made for lots in said town to the proprietor, his heirs or assigns, when it shall be known to whom it belongs.

All the lots for which lord Fairfax had made no deeds vested in the trustees.

How to be disposed of by them.

Purchase money to be paid into the treasury, subject to the claim of the proprietor when he demands it.

Same ground rent to be reserved as has been heretofore.



May sell all the lots in the town on twelve months credit.

Vacancy in the trustees, how to be supplied.

Commencement.

4. They may sell and convey all lots laid off within the boundaries of the said town on a credit not exceeding twelve months, and those who claim any such lot or lots by virtue of a prior right, shall be entitled to the same privilege on giving bonds with security.

5. In case of the death or removal of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees; and those appointed in the room of such as may die or remove, shall be in all cases vested with the same power as the original trustees.

6. This act shall commence and be in force from the passing thereof.

CHAP. 40.—An ACT concerning the town of Fincastle, in the county of Botetourt.

(Passed December 24, 1794.)

Lots and streets laid off adjoining the town to be added thereto.

Name changed to Monroe.

Trustees to levy annually money to repair streets and market house.

How the same is to be collected and accounted for.

Power of trustees to remove nuisances and to make rules respecting houses to be built.

Penalty for suffering hogs to run at large in said town.

1. *Be it enacted by the general assembly*, That from and after the passing this act, the town of Fincastle, in the county of Botetourt, with all the lots and streets which have been laid off around and adjoining to said town, and which are hereby added to and made part of the said town, shall be considered as part of the same in the same manner as if the same had been originally included within the bounds of said town; the inhabitants whereof shall have and enjoy all the rights and privileges of the other inhabitants thereof. And at all times hereafter the said town of Fincastle shall be called and known by the name of "Monroe."

2. And the trustees of the said town shall have full power to levy and collect of and from the inhabitants thereof, any sum not exceeding one hundred and thirty-three dollars per annum, for the purposes of keeping the streets and market house in said town in good order and repair, to be levied on said inhabitants in proportion to their tithables and taxable property, and to appoint a collector, who shall give bond and security, payable to the said trustees and their successors, for the faithful performance of his said office, and for paying all monies by him collected by virtue of this act, to the said trustees, or their order, to be applied as aforesaid. And the said collector shall, within two months after he shall have received the list of taxes due and payable by the inhabitants, collect and pay the same to the trustees, or their order. And the said collector shall have like power and authority as is by law given to the sheriff to collect county levies, and shall have a like allowance for collecting the same; and shall be liable, in case of failing to pay his collection, or any part thereof, to be proceeded against in any court of record in this commonwealth, by motion in a summary way; provided he or they have ten days previous notice thereof.

3. The said trustees shall have power to remove all nuisances and obstructions within the limits of said town, and to make rules and regulations with respect to buildings hereafter to be erected therein, as to them shall seem expedient.

4. It shall not be lawful for the owner of any lot or house within the said town to keep any hogs running at large within the same; and if any owner of any house or lot as aforesaid shall herein offend, he shall forfeit and pay twelve cents for each hog so found running at large, to be recovered before any justice of the peace in like manner as other sums under five dollars are recovered by any of the trustees, to be by them applied towards defraying any ex-





pense which may necessarily accrue in carrying into execution this act.

5. The trustees to the town of Fincastle shall, and they are hereby declared to be trustees of the town of Monroe, and are hereby vested with the same powers and authority within the limits thereof, as they enjoyed as trustees of the town of Fincastle. Trustees of Fincastle to be trustees of Monroe.

6. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 41.—An ACT for establishing a town on the land of Samuel Hyde Saunders, in the county of Powhatan.

[Passed December 21, 1794.]

1. *Be it enacted by the general assembly,* That any number of acres of land not exceeding thirty, the property of Samuel Hyde Saunders, lying on the south side of James river, in the county of Powhatan, shall be, and they are hereby vested in William Moseley, Richard Crump, Vincent Markham, John Swann, Samuel Pleasants, Horatio Turpin, Goodrich Crump, John Harris, junior, Frederick Woodson, James Clarke and William Bentley, gentlemen, trustees, to be by them or a majority of them laid off into lots of half an acre each, with convenient streets, and established a town by the name of "Jefferson." Town established. Trustees appointed.

2. So soon as the said land shall be laid off into lots, the trustees or a majority of them shall proceed to sell the same at public auction for the best price that can be gotten, the time and place of which sales shall be previously advertised for two months in the Virginia gazette, and to convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling house sixteen feet square at least, with a brick or stone chimney, to be fit for habitation within five years from the day of sale, and pay the money arising from such sales (after deducting all necessary expenses of advertising and laying off the said town,) to the said Samuel Hyde Saunders, or his legal representatives. Lots, when and how to be sold.

3. The trustees, or a majority of them, are hereby empowered to make such rules and orders for the regular building of houses therein, as to them shall seem meet, and to settle and determine all disputes about the bounds of the said lots. Powers of trustees to make rules as to building the houses.

4. So soon as the purchasers of lots in the said town shall have built thereon according to the conditions of their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. Privileges of owners of lots.

5. In case of the death, resignation or removal out of the county of any one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them; and the trustees so chosen, shall have the same power and authority as if they had been appointed and named in this act. Vacancy in the trustees, how to be filled.

6. This act shall commence and be in force from and after the passing thereof. Commencement.



CHAP. 42.—An ACT to establish an academy and incorporate the trustees thereof in the town of Petersburg.

(Passed December 24, 1794.)

Preamble.

1. Whereas it is the interest of all free governments to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants, and application hath been made to this assembly, to pass an act to appoint trustees for an academy about to be built in the town of Petersburg, and to incorporate them into a body politic:

Trustees.

2. *Be it therefore enacted*, That Joseph Jones, Thomas G. Peachy, Edward Pegram, James S. Gilliam, John Jeffers, Robert Turnbull, the reverend Andrew Syme, Alexander Frazer, James Cureton, George Ruffin, Benjamin Harrison, William Whitlock, Alexander G. Strachan, Alexander M'Rae, Peterson Goodwyn and George Keith Taylor, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of the "Trustees of the Petersburg academy," and by that name shall have perpetual succession and a common seal.

Their powers.

3. The said trustees and their successors by the name aforesaid, shall be capable in law to purchase, receive and hold to them and their successors forever, any lands, tenements, rents, goods or chattels which shall be given or devised to or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most advantageous for the said academy. The said trustees by the name aforesaid, may sue and be sued, implead and be impleaded, in any court of law or equity. They shall have power from time to time to establish such by-laws, rules and ordinances, not contrary to the laws and constitution of this commonwealth, as they shall judge necessary for the good government of the said academy. Not less than seven of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government or support of the said academy; nor shall any real estate belonging to the said academy be disposed of, unless nine trustees concur in opinion thereon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy and property delivered to his care, and pay and deliver the same to the order of the said trustees; and before he enters on the execution of the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will, when required by the said trustees, render to them a true account of all monies, goods and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed and fixed by the trustees.

How many to constitute a board.

May dispose of any estate belonging to the academy.

Treasurer to be elected.  
His duties.

Subscriptions to be received by the trustees for building the academy.

4. The said trustees shall have power to take and receive subscriptions for the purpose of erecting and building the said academy, and any other buildings which they may think necessary thereto; and if any person shall neglect or refuse to pay the money by him subscribed for that purpose, it shall be lawful for the said trustees to recover the same by warrant before a magistrate, where the subscription shall not exceed five dollars, and where it shall exceed that sum, by motion in the court of the county where the





delinquent subscriber resides; provided the party has ten days previous notice of such motion.

5. If the treasurer shall fail to render when thereunto required, a just and true account of all monies, goods and chattels which have come to his hands by virtue of his office, and also of all expenditures relative to the said academy, he shall on such failure be subject to a judgment on motion in any court of record in this commonwealth, and execution may thereupon be awarded in like manner as against sheriffs for the nonpayment of public taxes. Mode of proceeding against a delinquent treasurer.

6. This act shall commence in force from the passing thereof. Commencement.

CHAP. 43.—An ACT for establishing several new ferries.

[Passed December 19, 1794.]

1. *Be it enacted by the general assembly*, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry, that is to say: from the land of David Miner in the Horse-shoe settlement, across Cheat river to the mouth of Clover run, for a man four cents, and for a horse the same; from Dan, the land of George Lumpkin across Dan river, to the land of Thomas Worsham, in the county of Pittsylvania, for a man four cents, and for a horse the same; from the land of George Jones, in the county of Grayson, across New river to the land of James Jones on the opposite shore, for a man four cents, and for a horse the same; from the land of William Cannon, in the county of Buckingham, across James river to the land of Richard Cocke, for a man four cents, and for a horse the same; from the land of Joseph Sommersville, in the county of Monongalia, across Tyger Valley river to the land of John Nixon, for a man four cents, and for a horse the same; from the land of James Addair, in the county of Montgomery, across New river to the land of James Craig on the opposite shore, for a man five cents, and for a horse the same; from the land of William Morris, in the county of Kanawha, across Gaully river to his land on the opposite shore, for a man five cents, and for a horse the same; from the land of George Clendinen, across Elk river to the land of Andrew Donnally and James Robinson, the price for a man five cents, and for a horse the same; and from the land of the said George Clendinen across Great Kanawha, to the land of Childers, for a man five cents, and for a horse the same. Ferries established across New, James, Tyger Valley, New, Gaully, Elk, and Kanawha rivers.

2. The transportation of the following things shall be at the rates following: for every coach, waggon, chariot and the driver, the same as for six horses; for every four wheeled chaise, phaeton, and driver, the same as for four horses; for every two wheeled riding carriage, the same as for two horses; for every hogshead of tobacco, the same as for one horse; for every head of nett cattle, the same as for one horse; for every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse. If the keeper of any of the said ferries shall demand and take from any person a greater sum for the ferriage than is hereby allowed, such offender shall forfeit to the person so overcharged the ferriage demanded and received, and two dollars for every such offence, recoverable before any justice of the peace of the county. Rates of ferriage for wheeled carriages, cattle, &c. Penalty for taking greater rates.

3. This act shall commence and be in force from and after the passing thereof. Commencement.





## CHAP. 44.—An ACT for establishing several towns.

(Passed December 19, 1794.)

Town established  
on Fitz Ran-  
dolph's land in  
Harrison.

1. *Be it enacted by the general assembly*, That the lots and streets as the same are already laid off on the lands of Samuel Fitz Randolph, in the county of Harrison, shall be, and are hereby established a town, by the name of "New Salem;" and John Patterson, John Davis, Samuel Lippencott, James Davis, Zebulon Maxson, Benjamin Thorp, Thomas Clayton, William Davis, Jacob Davis, George Jackson, and John Haymond, gentlemen, constituted and appointed trustees thereof.

On Evick's land  
in Pendleton.

2. That forty-six and one half acres of land, as the same are already laid off into lots and streets, the property of Francis Evick, adjoining the courthouse in the county of Pendleton, shall be established a town by the name of "Franklin;" and William M'Coy, James Patterson, Joseph Johnson, John Roberts, Joseph Arbaugh, James Dyer, senior, John Hopkins, Jacob Conrad, Peter Hull, and Oliver M'Coy, gentlemen, constituted trustees thereof.

On Cabell's land  
in Amherst.

3. That eight acres of land the property of William Cabell, adjoining Tye river warehouse, in the county of Amherst, as the same are already laid off into lots and streets, shall be, and they are hereby established a town by the name of "New Market;" and Samuel Meredith, William S. Crawford, William Spencer, James Franklin, William Loving, Robert Rives, and Joseph Burrus, gentlemen, are appointed trustees thereof.

On the land con-  
veyed by Frede-  
rick Jones to Lee  
county.

4. That fifty-five acres of land conveyed by Frederick Jones to the justices of the peace in the county of Lee, and their successors, for the use of the said county, as the same are already laid off into lots and streets, are hereby established a town, by the name of "Jonesville;" and Frederick Jones, William Ewing, Peter Fulkerson, James Campbell, Joseph Blackemore, Nathaniel Hicks, David Chadwell, Daniel Young, Benjamin Shap, and Moses Cotterell, gentlemen, are appointed trustees thereof.

On Stanard's land  
in Orange.

5. That forty-five acres of land the property of William Stanard, in the county of Orange, as the same are already laid off into lots and streets, shall be, and they are hereby established a town, by the name of "Stanardsville;" and James Madison, Zachariah Burnley, William White, May Burton, junior, Robert Miller, James Easley, John Beadles, Thomas Davis, George Argenbright, and Isaac Davis, gentlemen, appointed trustees thereof.

On Clendinen's  
land on Elk river  
in Kanawha.

6. That forty acres of land, the property of George Clendinen, at the mouth of Elk river, in the county of Kanawha, as the same are already laid off into lots and streets, shall be established a town, by the name of "Charlestown;" and Reuben Slaughter, Andrew Donnally, senior, William Clendinen, John Morris, senior, Leonard Morris, George Alderson, Abraham Baker, John Young and William Morris, gentlemen, appointed trustees thereof.

On Lewis's land  
on Kanawha river  
in Kanawha.

7. That two hundred acres of land, the property of Thomas Lewis, at the mouth of Kanawha river, in the said county of Kanawha, as they are already laid off into lots and streets, shall be established a town by the name of "Point Pleasant;" and Leonard Cooper, John Vanbibber, Isaac Tyler, William Owens, William Allyn, Allyn Prior, John Reynolds, George Clendinen and William Morris, gentlemen, appointed trustees thereof.

On Senseney's  
land in Frederick.

8. That sixty acres of land, the property of Peter Senseney, in the county of Frederick, as the same are already laid off into lots



and streets, shall be established a town by the name of "Middleton;" and Jacob Dannar, John Senseney, Isaac Sitler, Abraham Neill, Adam Heiskell and Peter Laucke, gentlemen, appointed trustees thereof.

9. The trustees of the said towns respectively, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein as to them shall seem best, and to settle and determine all disputes concerning the bounds of the said lots.

*Powers of the trustees.*

10. If the purchaser of any lot in either of the said towns, shall fail to build thereon within the time limited for that purpose by their respective deeds of conveyance, the trustees of the said town may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

*Purchasers failing to improve their lots to forfeit them.*

11. In case of the death, resignation or removal out of the county of one or more of the trustees of the said towns respectively, the vacancy thereby occasioned shall be supplied by the remaining trustees or a majority of them; and the person so elected, shall have the same power and authority as if he had been particularly named in this act.

*Vacancies in the trustees how to be filled.*

12. *And be it further enacted*, That Worlich Westwood, George Hope, George Wray, Joseph Needham, John Rogers, Charles Jennings and Thomas Jones, junior, gentlemen, shall be, and they are hereby appointed trustees of the town of Hampton.

*Trustees appointed for the town of Hampton.*

13. *And be it enacted*, That the trustees of the town of Evansham, shall have the same power and authority as the trustees of the town of Fincastle, in the county of Botetourt.

*Trustees of Evansham to have the same power as those of Fincastle.*

14. This act shall commence and be in force from and after the passing thereof.

*Commencement.*

#### CHAP. 45.—An ACT authorizing the cutting of drains in the county of Accomack.

(Passed December 23, 1794.)

1. Whereas it has been represented to the present general assembly, by the petition of a respectable number of the inhabitants of the county of Accomack, that large quantities of land in the said county, of good quality, are rendered of small value by the retention and stagnation of water thereon; that the inconvenience aforesaid can only be removed by canals and ditches, which must be necessarily conducted through the lands contiguous thereto, and often pertaining to sundry individuals not immediately interested in the advantages to be derived from such improvements; that a license to conduct and perpetuate such canals and ditches on many occasions cannot be procured by reason of the nonage or other legal disability of the proprietors of the contiguous lands, and sometimes may be refused through obstinacy, or a desire to compel those possessing lands improvable by the means aforesaid, to sell the same at an inferior value, and praying that the legislature by its interposition may provide such remedy touching the same as may at once tend to promote the advancement of agriculture within the county aforesaid, and preserve to individuals complete justice:

*Preamble.*

2. *Be it therefore enacted*, That where any person or persons possessing lands within the county aforesaid, shall make application to the court of the said county by petition in writing, setting forth the quantity or quantities of land by him or them possessed, the

*How persons owning sunken lands in Accomack may obtain leave to cut ditches through*





the adjoining lands for draining the same.

Viewers to be appointed.

Parties owning the adjoining lands to be summoned.

Writ of *ad quod damnum*.

Jury to ascertain the damages.

Court to determine whether the canal or ditch shall be opened.

Petitioner's right on paying the value of the lands to the proprietor.

situation and bounds thereof, and suggesting that the same might be materially improved by a canal or ditch to be conducted therefrom through the lands contiguous thereto, and pertaining to other persons, but that he or they cannot obtain leave to conduct and perpetuate the same, unless by the aid of the law it shall be lawful for the said court, and they are hereby authorized and required, to appoint three or more fit and able persons, to be sworn before a justice of the peace, to view the ground through which such canal or ditch is proposed to be conducted, and report to them truly and impartially the conveniences and inconveniences which will result as well to individuals as to the public, if such canal or ditch shall be opened and established.

3. Upon the return of the said viewers, if the said court shall be of opinion that the canal or ditch applied for, will be of more material advantage to the petitioner or petitioners, than of disadvantage to those through whose lands the same is proposed to be conducted, or the public, the said court shall order summonses to be issued to the proprietors and tenants of the lands through which the same is proposed to be conducted, if they be found within the county, and if not, then to their agents therein if any they have, to shew cause why such canal or ditch should not be opened and established; upon the return of which summons, if good cause be not shewn to the contrary, the said court shall order their clerk to issue a writ in the nature of a writ of *ad quod damnum*, to be directed to the sheriff of the county aforesaid, commanding him to summon and impanel twelve able and discreet freeholders of the vicinage, no ways related to any party, to meet at some certain place on or near the ground through which the said canal or ditch is proposed to be conducted, and on a certain day to be named by the said court and inserted in the said writ, of which notice shall be given by the said sheriff to the said proprietors or tenants, or their agents, as before directed, if they were not present in court at the time of the order made; which freeholders, taking nothing either of meat or drink from any person whatever from the time they shall come to the said place until their inquest sealed, shall be charged by the said sheriff impartially and to the best of their skill and judgment, to view the lands through which the said canal or ditch is proposed to be conducted, and say to what damage it will be of to the several and respective proprietors and tenants thereof, taking into estimation as well the use of the lands which will be withdrawn from the proprietors and tenants by the said canal or ditch, and the banks thereof, as also other additional inconveniences by reason thereof; and if the said inquest cannot be completed in one day, the said sheriff shall adjourn the said jurors from day to day until the same be completed.

4. Which inquest, sealed by the said jurors, together with the writ, shall be returned to the said court, who thereupon, as well as upon other evidence, shall proceed to consider whether, all circumstances weighed, it be better that the said canal or ditch shall be opened and established; and if they be of opinion that the same shall be opened and established, the said petitioner or petitioners shall, upon paying respectively to the several parties entitled, the value of the lands which will be taken up by the said canal or ditch, and the banks thereof, and of all other additional inconveniences by reason thereof, obtain from the said court a license to



open and establish the same; and the said proprietors and tenants, and their representatives possessing the same lands to be drained by the means aforesaid, shall in all after time be entitled to continue and preserve the said canal or ditch for the purpose of draining the said lands.

5. And if the court shall be of opinion that a canal or ditch petitioned for as aforesaid ought not to be opened and established, they shall allow to the defendant or defendants against such petition his or their full costs; but if the same shall be opened and established, no costs shall be recovered against any defendant by reason of his having contested the same. Rule respecting costs.

6. *Provided however*, That the right of soil in the lands through and upon which the said canal or ditch shall be conducted, shall be construed to be and remain in the original proprietor or proprietors, and his or their representatives respectively possessing the same, to all purposes, save only those of filling up or otherwise obstructing the passage of water through the said canal or ditch, and restraining the petitioner or petitioners, and their representatives possessing the lands so to be drained, from coming upon the said lands and opening and continuing the said canal or ditch from time to time as may be necessary, doing as little harm as may be. Right of soil in the original proprietor.

7. And if any person without due authority therefor, shall fill up or obstruct a canal or ditch opened and established by virtue of a license to be obtained as aforesaid, he shall be deemed guilty of a private nuisance, and be liable to the action of the party or parties grieved, and if he be convict thereof, shall be liable to full costs of suit. Penalty for filling up any such canal or ditch.

8. *Provided also*, That if any canal or ditch to be opened and established as aforesaid, shall in its course be conducted across any public road, it shall be the duty of the petitioner or petitioners, and his or their representatives possessing the lands to be drained by means thereof, in all future time to make and keep in constant good repair, a sufficient bridge twelve feet wide at least across the said canal or ditch where the same may intersect any public road; and in case of default therein, they shall be deemed guilty of a public nuisance, and the surveyor of the said road in such case shall have full power to fill up the said canal or ditch at the said road, and to level the same with the surface of the adjoining ground. Bridges to be kept by the petitioners over the canals where they cross public roads.

9. *And be it further enacted*, That all petitions, reports, inquests, and orders made under this act, and documents exhibited in the said court relative thereto, shall be entered at large by the clerk of the said court amongst the records thereof. Petitions, reports, inquests, &c. to be entered of record at large.

10. This act shall commence and be in force from and after the last day of March next. Commencement.

CHAP. 46.—An ACT to compel the proprietor of the Salt springs in the county of Washington to inclose the same.

(Passed December 10, 1794.)

1. Whereas it is represented by the inhabitants of the county of Washington, that great numbers of their cattle are enticed to the Salt springs in the said county to lick the brine and salt, which many of them take to such an excess as to occasion immediate death: For remedy whereof, Preamble.

2. *Be it enacted*, That the owner or proprietors of the said Salt springs, or tenant or tenants occupying the same, shall, and he or The owner of the Salt springs and works to inclose them.





they are hereby directed and required, on or before the first day of April next, to inclose the said springs, together with the salt works, which now are or hereafter may be worked, with a lawful fence, to prevent cattle from getting to any brine or salt produced from the same.

**Penalty for neglect.** 3. If the owner or proprietors of the said springs, or tenant or tenants occupying the same, shall neglect to make such inclosures within the time limited for that purpose, he or they shall forfeit and pay the sum of one hundred dollars, to be recovered by action of debt founded on this act in any court of record in this commonwealth, by any person who shall sue for the same.

**For failing to keep up the inclosure.** 4. If the owner or proprietors of the said springs and works, or tenant or tenants occupying the same, shall, after the same is inclosed pursuant to the directions of this act, neglect or fail to keep the same thereafter so inclosed, he or they shall for every twenty-four hours such failure may happen, forfeit and pay the sum of six dollars, to be recovered by summons and petition in any court of record in this commonwealth with costs, to the use of the person suing for the same; and the owner or proprietors, or tenant or tenants in occupation of said springs and works, shall moreover be liable to the action of the party grieved for the value of any cow or cattle lost from and after the said first day of April, and whose death was occasioned by licking brine or salt at the said springs.

**Commencement.** 5. This act shall commence and be in force from and after the passing thereof.

CHAP. 47.—An ACT for the relief of the people of Grayson county, and appointing commissioners to give them settlement and pre-emption rights.

(Passed December 24, 1794.)

**Preamble.**

1. Whereas it is represented to the present general assembly, that under the former government an order of council was granted to Peter Jefferson and company, for one hundred thousand acres of land on the western waters, which said order of council was surveyed by the late Thomas Walker deceased, an agent for the company, and now lies in the county of Grayson; and as many of the inhabitants of said county were encouraged by the terms of sale, publicly advertised by the said Walker, to settle on those lands, on which they have made valuable improvements, and as the claim of the company aforesaid, was never confirmed by the court of appeals agreeable to an act of assembly, intituled, "*An act for adjusting and settling the titles of claimers to unpatented lands under the present and former government, previous to the establishment of the commonwealth's land office;*" and as it is just and reasonable that those who have settled under such circumstances should have a reasonable allowance for the risk and charges they have incurred, as also for the improvements they have made, and that the property so acquired should be secured to them:

**Who shall be entitled to settlement and pre-emption rights on the lands granted to Peter Jefferson & Co.**

2. *Be it therefore enacted*, That all persons, or his, her or their assignees, who, at any time before the first day of January, one thousand seven hundred and seventy-eight, have really and *bona fide* settled themselves or their families on any part of the lands surveyed for the company aforesaid, and to which no other person has legally acquired a grant by the rules and regulations prescribed by law, shall be allowed four hundred acres of land, or such smaller quantity as he chooses to include his settlement. And if any such





settler desires to take a quantity greater than is hereby allowed, they and each of them shall be entitled to the pre-emption of any quantity adjoining his settlement right, not exceeding one thousand acres.

3. *Be it further enacted*, That Daniel Trigg, Andrew Lewis and Robert Sawyers, gentlemen, be, and they are hereby constituted and appointed commissioners to carry this act into execution; that they shall meet at the courthouse of said county on the first day of February next, or as soon after as may be convenient. They shall have power to appoint a clerk, and administer his oath of office. They shall be attended by the sheriff or deputy sheriff of the county, be empowered to administer oaths to witnesses or others necessary to the discharge of their office. The clerk shall keep exact minutes of all the proceedings of the commissioners, and enter the names of all persons to whom either settlement or pre-emption rights shall be given, as the case is, with the respective quantities and locations. The said commissioners shall deliver to every person to whom they shall adjudge lands for settlement and pre-emption rights, a certificate thereof, under their hands and seals, and attested by the clerk, mentioning the number of acres and the time of settlement, and describing as near as may be the particular location, noting also therein the quantity of adjacent land to which such person or persons shall have the pre-emption.

Commissioners appointed to carry this act into effect. When and where they are to meet.

Their powers, duties, &c.

4. *And be it further enacted*, That for every hundred acres of land contained in such certificate, the party receiving the same shall pay down to the commissioners two dollars, besides a fee of fifty cents for each certificate so granted. And each person to whom a certificate is granted, shall be entitled to a location and survey to be made by the surveyor of the county. Every person or persons to whom a certificate is granted, shall enter and survey the land he is entitled to within six months after the date thereof, which said survey shall be returned to the register's office within three months after the date of his survey, and on which a grant shall issue under the same rules and regulations as is prescribed by the general land law.

Party obtaining a certificate for one hundred acres, to pay down two dollars and a fee to the commissioners of fifty cents. To survey the land within six months.

5. And to prevent frauds or mistakes, the said commissioners immediately after having completed the business in the county aforesaid, shall transmit to the register of the land office under their hands and seals, and attested by the clerk, an exact list or schedule in alphabetical order of all such certificates by them granted, and a duplicate so signed and attested to the county surveyor for his information.

Commissioners to send to the executive a list of the certificates, and a duplicate thereof to the county surveyor.

6. The said commissioners for every day they shall be employed in the execution of their office, shall receive two dollars.

Their allowance.

7. They shall be accountable for all money they shall receive upon issuing certificates as aforesaid, and shall settle a fair account upon oath with the auditor, and pay to the treasurer the balance in their hands after deducting their own and the clerk's allowance.

To account for the money they receive.

8. And when the register shall make out any grant to any person or persons due to him, her or them by virtue of this act, he shall recite therein as the consideration that they are entitled under this act.

Grants to express that they are entitled under this act.

9. This act shall commence and be in force from and after the passing thereof.

Commencement.



## CHAP. 48.—An ACT for improving the navigation of Slate river.

(Passed December 18, 1794.)

Preamble.

1. Whereas it is represented, that the clearing, improving and extending the navigation of Slate river, in the county of Buckingham, will be of public utility :

Trustees appointed.

2. *Be it enacted*, That Valentine Scruggs, Boaz Ford, Isaac Sallee, Nathan Ayrs, John Moseley, Edmund Glover, Arthur Moseley, Samuel Allen and Thomas Moseley, gentlemen, shall be, and they are hereby constituted and appointed trustees for clearing and extending the navigation of the said Slate river, from the mouth thereof as far as the courthouse of the said county, and for that purpose they are authorized to take and receive subscriptions. If any person shall neglect to pay the money subscribed for the purposes of this act, it shall be lawful for the said trustees to recover the same in the name of the trustees for the time being, by warrant before a single magistrate where the subscription doth not exceed five dollars, and where it exceeds that sum by motion in the court of the county where the subscriber or subscribers reside, on giving the party ten days previous notice of every such motion.

Powers and duties of the trustees.

3. The said trustees, or a majority of them, shall have power to contract and agree with any person or persons for clearing and improving the navigation of the said river, in such manner as they or a majority of them shall judge most proper ; and to remove all obstructions to the navigation of the said river. The said trustees or a majority of them shall have power to appoint one or more persons to receive all monies subscribed by virtue of this act, and the person or persons so appointed, shall in the court of the said county of Buckingham, give bond with sufficient security in a reasonable penalty, payable to the said trustees and their successors for the time being, with condition that he or they, his or their heirs, executors or administrators, shall and will at all times when required, truly and faithfully account for all such sums of money as shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct. If the receiver or receivers shall neglect or refuse to pay the money as ordered or directed by the said trustees, or so much thereof as shall come to his or their hands, the party entitled to receive the same by virtue of such order, shall and may recover the money in like manner as is herein directed and prescribed in the case of persons refusing or neglecting to pay their subscriptions.

Mode of proceeding against them if they fail to pay the money received by them.

Owners of mills on the river to erect locks and slopes for the passage of boats and fish.

4. *And be it enacted*, That the owners of mills on the said river and every of them, shall within eighteen months after the passing of this act, unless otherwise directed by the trustees, erect a sufficient lock or locks and slope at each mill for the passage of batteaus of four tons burthen, and also for the passage of fish, and thereafter keep the same in good repair ; and if such owners or any of them shall neglect to erect such sufficient locks and slopes within the said eighteen months, the mill or mills so as aforesaid deficient, are hereby declared nuisances, and may be thrown down and destroyed ; and in case any owner of a mill on the said river shall fail to keep any lock or slope so erected in good and sufficient repair, or shall fail to cause due attendance to be given thereat for the reasonable dispatch of vessels navigating the said river, he or they so offending, shall forfeit and pay the sum of five hundred dol-





lars for every such failure, to be recovered in the name of the said trustees, by action of debt or information in the court of the county where the owner or proprietor resides.

5. If any person shall fell a tree in the said river, or fix any hedge, or stop, or place other obstructions therein, he or they so offending shall forfeit and pay the sum of twenty-five dollars for every twenty-four hours such obstruction shall remain, to be recovered as aforesaid. All penalties and forfeitures imposed by this act, shall be and enure to the use of the said trustees, to be by them applied towards keeping open and improving the navigation thereof. Penalty for felling a tree into the river.

6. In case of the death, resignation, or other disability of any of the said trustees, it shall be lawful for the remaining trustees, or a majority of them, to supply the vacancy: Saving to the owners of mills their legal rights which are not intended hereby to be confirmed or impaired. Vacancy in the trustees how to be supplied.

7. This act shall commence in force from the passing thereof. Commencement.

CHAP. 49.—An ACT to authorize the building of iron works on the west fork of Monongalia river.

(Passed December 1, 1794.)

1. *Be it enacted by the general assembly*, That it shall and may be lawful for any person or persons to erect one or more dams across the west fork of Monongalia river, for the purpose of building iron works thereon: *Provided always*, That every such dam shall not exceed three feet in height, and be so constructed as to admit the easy passage of fish over or through the same, and flat bottom boats of any burthen, fifteen feet wide to go down the said river through the said dam. Any person authorized to erect dams across the river for the purpose of building iron works.

2. *And be it further enacted*, That every such dam so erected, shall have a good and sufficient slope made and erected at one end thereof, so that keel bottom boats of two tons burthen may be towed through the same up or down the said West Fork river; which dam or dams, slope or slopes, so erected and completed, shall be judged and approved of by a majority of the trustees appointed by the act of assembly passed the last session, intituled, "*An act for clearing and extending the navigation of the Monongalia and West Fork rivers:*" *And provided also*, That such dams and iron works be completed within three years from the passing of this act. Slopes to be constructed for the passage of boats and fish.

3. So much of the said recited act as comes within the meaning of this act is hereby repealed. Repealing clause.

4. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 50.—An ACT giving further time for opening the navigation of Patowmack river above tide water.

(Passed December 12, 1794.)

Whereas the several periods of time prescribed by different acts of assembly for extending the navigation of Patowmack river will shortly expire, *Be it enacted*, That the further time of two years from the first day of January next, shall be allowed for completing the said navigation; any law to the contrary notwithstanding.



## CHAP. 51.—AN ACT concerning the clearing of the north fork of James river.

(Passed December 22, 1794.)

Trustees appointed to receive subscriptions for clearing the river.

1. *Be it enacted by the general assembly*, That Isaac Davis, junior, Baziel Brown, Thomas Bell, William Woods, William Michie, Isaac Miller, Joshua Kay, Thomas Garth, James Lewis, Wilson Cary Nicholas, and Edward Moore, gentlemen, shall be, and they are hereby constituted and appointed commissioners for taking and receiving subscriptions for the purpose of clearing, improving and extending the navigation of the Rivanna or north fork of James river, as far as may be judged practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus or canoes, capable of carrying six hogsheads of tobacco.

Subscribers to meet and choose directors.

2. So soon as a sufficient sum in the opinion of the commissioners shall be subscribed to complete the work, they shall advertise the same at Charlottesville, and request a meeting of the subscribers at that place four weeks at least previous to the day appointed for that purpose; and the subscribers present at such meeting, or a majority of them, shall proceed to choose five directors, who, or a majority of them, shall have power from time to time to appoint a person to be receiver of all money subscribed by virtue of this act, who shall give bond with sufficient security in the penalty of fifteen hundred pounds, in the court of the county where he resides, payable to the said directors, or the survivors or survivor of them, with condition that he or his heirs, executors or administrators, at all times when required, will truly and faithfully account for all sums of money that shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said directors, or a majority of them, shall order and direct.

Receiver to be appointed.

Subscriptions when to be paid.

3. The said directors, and their successors, or a majority of them, shall have full power and authority, as money shall be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion the subscribers shall advance and pay off the sums by them subscribed. If any person neglects or refuses to pay the money by him subscribed for the purposes of this act, it shall be lawful for the said directors, or the survivors or survivor of them, to recover the same by warrant before a magistrate, where the subscription doth not exceed five dollars, and where it exceeds that sum, by motion in the court of the county where the person resides; provided he has ten days previous notice of such motion.

How to be recovered.

Directors to view the river and contract for clearing it.

4. The said directors, or a majority of them, shall as soon as may be, proceed to view the said river, and ascertain as nearly as they can the highest part capable of navigation according to this act, and to contract and agree with any person or persons for clearing and improving the navigation of the said river in such manner as they shall judge proper.

Subscribers may vote by proxy for directors.

5. The subscribers may vote either in person or by proxy for the said five directors.

Vacancy in the directors how to be filled.

6. In case of the death, removal, resignation or incapacity of any of the said directors, it shall be lawful for the subscribers or a majority of them, to elect other person or persons in the room of him or them so dying, removing or resigning; of the time and place for making such election, previous notice shall be given by advertisement at the courthouse in the town of Charlottesville, on two successive court days. If a majority of the subscribers shall





fail to attend on the day appointed for electing a director or directors, the vacancy shall be supplied by those who do attend.

7. Saving unto the representatives or assigns of Bennet Henderson, all the legal right now vested in them, or any of them, to continue and keep up the mill dam erected by the said Bennet Henderson across the north branch of James river, which right is not intended to be impaired or confirmed by any thing in this act.

Saving the right of Bennet Henderson's representatives to his mill dam across the river.

8. *And provided*, The directors to be appointed shall commence their operations for the clearing and improving the navigation of the said river, at the part which shall be ascertained by them to be the highest point capable of navigation.

Where the directors are to begin their operations for clearing the river.

9. So much of the act passed in the year one thousand seven hundred and sixty-four, intituled, "*An act for clearing the great falls of James river, the river Chickahominy, and the north fork of James river*," as comes within the intent and meaning of this act, is hereby repealed.

Part of an act of 1764 repealed.

10. This act shall commence and be in force from and after the passing thereof.

Commencement.

#### CHAP. 52.—An ACT concerning Thomas Harvey and others.

(Passed December 2, 1794.)

1. Whereas it has been represented to the present general assembly, that a murder was committed in the county of Charlotte, some time in the month of        last, by a certain John Ford, who forthwith fled for the same, and that Thomas Harvey, Charles Reine, William North, Major Parsons and William Harvey, pursued, and on the confines of the state of Georgia, apprehended the said John Ford, who was thereon indicted in the court of the district of Prince Edward, tried and found guilty of the offence, and it is just and reasonable that the exertions of individuals in supporting the peace and order of the community when so daringly violated, should not in instances like the present go unrewarded:

2. *Be it therefore enacted by the general assembly*, That there be allowed by the public for apprehending, securing and bringing to trial the criminal aforesaid, the sum of two hundred dollars.

A sum of money allowed to the apprehenders of John Ford, a murderer.

3. *And be it further enacted*, That the said sum of two hundred dollars be equally divided among the said Thomas Harvey, Charles Reine, William North, Major Parsons and William Harvey; and the auditor of public accounts, on application to him made either in person or by attorney, shall, and he is hereby directed to issue to the said Thomas Harvey, Charles Reine, William North, Major Parsons and William Harvey, a warrant for their respective proportions thereof accordingly.

4. This act shall commence and be in force from and after the passing thereof.

Commencement.

#### CHAP. 53.—An ACT concerning Lucy Armistead.

(Passed December 20, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby directed, on proper application to him made, to issue to Lucy Armistead, administratrix of John Armistead deceased, a warrant for the sum of forty-seven pounds, for a horse impressed into the service of this commonwealth during the late war, the property of the decedent, and valued by the court of the county of Caroline, where the said impressment

Warrants to be issued to Lucy Armistead, administratrix of John Armistead, for a horse impressed.





And for a quantity of beef furnished for the public use. *And be it further enacted by the general assembly,* That the auditor of public accounts shall in like manner issue to the said Lucy Armistead, a warrant for the value of seven hundred and seventy-five pounds of beef, taken and appropriated to the use of the public at the same period, estimating the said beef at the rate per hundred heretofore allowed by law.

Proviso.

2. *Provided always,* That the said Lucy Armistead shall previously enter into bond and security in such manner as the executive shall require, conditioned for the indemnity of this state and of the United States, against any future application for payment of said claim.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 54.—An ACT for placing James Robinson on the list of pensioners, and for other purposes.

(Passed December 29, 1794.)

James Robinson placed on the list of pensioners.

1. *Be it enacted by the general assembly,* That James Robinson, of the county of Bath, who received a shot through the head at the battle of Point Pleasant, in the year one thousand seven hundred and seventy-four, which has disabled him from gaining a support by labour, shall be placed on the list of pensioners, and be allowed the sum of ten pounds per year.

Certain sums granted to the widow of Thomas Herbert, and to James Robinson, for their immediate relief.

2. *And be it further enacted,* That the auditor of public accounts, on application to him made, either in person or by attorney, shall issue to the widow of Thomas Herbert, a warrant for the sum of twenty-five pounds, and to the said James Robinson, a warrant for the sum of fifteen pounds, for their immediate relief, which warrants so issued shall be dischargeable in like manner with other pension warrants.

Commencement.

3. This act shall commence and be in force from and after the passage thereof.

CHAP. 55.—An ACT concerning John Taylor, executor of Thomas Williamson, deceased.

(Passed December 25, 1794.)

Warrant to be issued to John Taylor, executor of Thomas Williamson.

1. *Be it enacted by the general assembly,* That the auditor of public accounts, on application to him made in person or by attorney, shall, and he is hereby authorized and required, to issue to John Taylor, executor of Thomas Williamson, deceased, a warrant on the treasurer in payment of eighty-seven barrels of corn borrowed of the decedent in the year one thousand seven hundred and eighty-one, by a special order of the executive to that effect; estimating the said corn at the rate per barrel heretofore allowed by law.

Commencement.

2. This act shall commence in force from the passage thereof.

CHAP. 56.—An ACT for suspending the proceedings on a certain forthcoming bond, entered into by Ciceley Anderson, administratrix of William Anderson, deceased.

[Passed December 24, 1794.]

Proceedings on her forthcoming bond to the public to be suspended for one year.

1. *Be it enacted by the general assembly,* That all further proceedings on a bond entered into by Ciceley Anderson, as administratrix of William Anderson deceased, by virtue of an act of assembly, passed in the year one thousand seven hundred and ninety-two,



intituled, "*An act for suspending certain executions*," for the forthcoming of certain property belonging to the estate of her late husband, taken to discharge the arrears of taxes due from him as sheriff of the county of Hanover, for the years one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety, shall be, and are hereby suspended for the term of one year from the passing of this act.

2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 57.—An ACT concerning Sarah Tool and Dorothy Tanner.

(Passed December 18, 1794.)

1. *Be it enacted by the general assembly*, That Sarah Tool, Pensions allowed to Sarah Tool. widow of Richard Tool, (who during the late war enlisted as a gunner on board of the Henry galley belonging to this commonwealth, and died in the service thereof) shall be placed on the list of pensioners and allowed the sum of eight pounds per year.

2. *And be it further enacted*, That Dorothy Tanner, the widow And Dorothy Tanner. of Jacob Tanner, a soldier, who was in the service of this state during the late war, and died in the same, shall be placed on the list of pensioners, and allowed the sum of eight pounds a year.

3. *And be it further enacted*, That the auditor of public accounts shall, and he is hereby authorized and required, on application to him made, to issue to the said Sarah Tool and Dorothy Tanner, a warrant on the treasurer, for the sum of twelve pounds each for their immediate relief. Certain sums granted to them for their immediate relief.

4. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 58.—An ACT concerning Charles Connor.

(Passed December 17, 1794.)

1. *Be it enacted by the general assembly*, That the damages and interest thereon upon the amount of the judgments obtained against Charles Connor, late sheriff of the county of Norfolk, for the taxes due in the years one thousand seven hundred and eighty-seven, and one thousand seven hundred and eighty-eight, shall be repaid to the said Charles Connor by the treasurer in such kind as shall have been paid into the treasury, upon warrant of the auditor of public accounts for that purpose. Damages paid by him on certain judgments obtained by the commonwealth to be refunded to him.

2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 59.—An ACT for issuing duplicates of certain certificates to Nathaniel Dennis and James Wade.

(Passed December 17, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall issue to Nathaniel Dennis, a duplicate of a loan office certificate, number one thousand eight hundred and forty-one, for funded paper money, in lieu of the original which he hath lost. Duplicate of certain certificates to be issued to Nathaniel Dennis.

2. Also to James Wade, a duplicate of a certificate for funded paper money, dated the first day of October, one thousand seven hundred and eighty-two, number two thousand one hundred and ninety-eight, for three pounds two shillings and eight pence specie, And to James Wade.





Proviso.

in lieu of the original which he hath lost: *Provided always*, That the said Nathaniel Denuis and James Wade, shall severally previous to obtaining the said duplicates, enter into bond, with security to be approved by the executive, to indemnify this commonwealth.

CHAP. 60.—An ACT appointing additional trustees to convey to Ignatius Perry a tract of land therein mentioned.

(Passed December 17, 1794.)

Preamble.

1. Whereas by an act of assembly, passed in the year one thousand seven hundred and sixty-six, intituled, "*An act to vest certain lands therein mentioned, whereof George Carter, esquire, died seized in fee simple, in certain trustees therein named, to be sold for performance of his will,*" the honorable Robert Burwell, esq., George Washington, and Fielding Lewis, esqrs., or any two of them, were appointed trustees, as well for the purpose of selling such of the lands of the said George Carter, deceased, which remained unsold by the trustees first appointed for that purpose, as for conveying and securing to the several persons who had purchased of them and obtained no titles, or who should under the act now in recital purchase lands of the last mentioned trustees, fee simple estates therein. And whereas it hath been represented that under the act aforesaid, a certain George Noble became the purchaser of a tract of land lying in the county of Frederick, containing about four hundred and four acres, for which he has not yet obtained a deed, two of the trustees appointed by the above recited act, to wit, Robert Burwell and Fielding Lewis, esquires, having departed this life without making such conveyance, and that the said George Noble hath sold the said land to a certain Ignatius Perry of the said county of Frederick:

Trustees appointed to convey a tract of land to Ignatius Perry.

2. *Be it enacted*, That John Sherman Woodcock, and Cornelius Baldwin, esquires, be, and they are hereby appointed trustees, with the said George Washington, esquire, who, or any two of them, shall have full power to convey to the said Ignatius Perry, his heirs, executors, administrators and assigns, in fee simple, the tract of land aforesaid, with its appurtenances, and such conveyance so made shall be good and valid in law; any thing to the contrary notwithstanding.

Saving the rights of others.

3. Saving however to all and every person or persons, bodies politic and corporate, their heirs and successors, other than the commonwealth and the heirs of the aforesaid George Carter, and the persons claiming under his will, all such right, title, or interest which he or they might or would have had in or to the aforesaid land or any part thereof if this act had not been made.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 61.—An ACT directing the auditor of public accounts to issue to James Ramsay a duplicate of a military certificate.

(Passed December 19, 1794.)

Duplicate of a military certificate to be issued to James Ramsay.

1. *Be it enacted by the general assembly*, That the auditor of public accounts be, and he is hereby directed, to issue to James Ramsay, a duplicate of a military certificate, granted in the name of Joshua Harris the twenty-fourth day of August, one thousand seven hundred and eighty-four for thirty pounds; provided that the said James Ramsay shall previous to obtaining the same enter into



bond with sufficient security, to be approved of by the executive, to indemnify this commonwealth and the United States.

2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 62.—An ACT directing the auditor to issue warrants in payment of the losses sustained by the burning of Rocky Ridge warehouse.

(Passed December 24, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts on proper application to him made, shall issue to the several persons entitled thereto, warrants for the amount of their respective claims for tobacco destroyed by the burning of the Rocky Ridge warehouse, in the month of January, one thousand seven hundred and ninety-three, pursuant to the report thereof made by the commissioners appointed to enquire into and ascertain the same.

Warrants to be issued to owners of tobacco burnt at Rocky Ridge.

2. He shall in like manner issue to the said commissioners a warrant for the sum of four pounds five shillings, expended by them in conducting the said enquiry.

And to the commissioners for their expenses.

3. *And be it further enacted*, That the several warrants issued in conformity to the directions of this act, shall be made payable out of the money arising from duties on tobacco exported.

Payable out of the duties on tobacco exported.

4. This act shall commence and be in force from and after the Commencement. passage thereof.

CHAP. 63.—An ACT vesting in the heirs of William Pittman, deceased, a certain tract of land therein mentioned.

(Passed December 12, 1794.)

1. *Be it enacted by the general assembly*, That all the right, title, and interest which the commonwealth hath in or to a certain tract of land lying in the county of King George, which hath escheated to the said commonwealth, as the property of a certain William Pittman, who was condemned and executed for the crime of murder, shall be, and the same is hereby vested in John Pittman, Ann Pittman, Mary Pittman, and William Pittman, children and heirs of the said William Pittman, deceased, to be by them held and enjoyed in the same manner as if it had legally descended to them.

Interest of the commonwealth in a certain tract of land vested in the heirs of William Pittman, deceased.

2. Saving however to all and every person or persons, body politic and corporate, other than the commonwealth, any right, title, or interest which he or they might or would have had in or to the said land, or any part thereof if this act had never been made.

Saving the rights of others.

3. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 64.—An ACT vesting in the widow and heirs of James Dixon, deceased, a tract of land whereof John Richmond, died seized.

[Passed December 12, 1794.]

1. *Be it enacted by the general assembly*, That all the right, title, and interest which the commonwealth hath, or may have in or to a certain tract of land lying in the county of Louisa, which hath escheated to the said commonwealth, as the property of a certain John Richmond, who died seized thereof, intestate and without lawful heirs, shall be, and the same is hereby vested in Lucy Dixon, widow and relict of James Dixon, deceased, who was the natural and reputed son of the aforesaid John Richmond, deceased, and in Sarah, John, Nancy, and Patsey, children and heirs of the said

Interest of the commonwealth in certain lands vested in the widow and children of James Dixon, deceased.





James, to be by them held and enjoyed in the same manner as if it had legally descended to them.

Saving the rights of others.

2. Saving however to all and every person or persons, body politic or corporate (other than the commonwealth) any right, title, or interest which he or they might or would have had in or to the said land or any part thereof if this act had never been made.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 65.—An ACT concerning William Gray and others.

(Passed December 11, 1794.)

Warrants to be issued to William Gray and others for certain sums of money.

1. *Be it enacted by the general assembly*, That the auditor of public accounts be empowered, and he is hereby required to issue unto William Gray, Thomas Sims, Joseph Dulany, Anthony Dulany, Joshua Bartley, Jonathan Sims, Francis Gray, Lewis Davis Yancey, William Ross, Armistead Long, John Brown, Daniel Long, John Weatherall, George Hening, Samuel B. Green, Christopher Chewning, Daniel Coaghill and James Camp, who severally enlisted into the first regiment of cavalry in December, one thousand seven hundred and seventy-eight, and January, one thousand seven hundred and seventy-nine, under captain Robert Yancey, and were promised a bounty of four hundred dollars each, a warrant on the treasury for the sum of fifty-seven dollars and fourteen cents each, (that being the value of the said bounty, according to the scale of depreciation,) with interest thereon, to be computed from the month of January, one thousand seven hundred and seventy-nine, after the rate of *five per centum per annum*.

With interest thereon.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 66.—An ACT concerning Alexander Madill.

(Passed December 22, 1794.)

Duplicate of a certain certificate to be issued to him.

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby authorized and required, on proper application, to issue to Alexander Madill, a duplicate of a certificate for paper money funded, originally issued for the benefit of the estate of a certain William Bynam, numbered two hundred and six, and amounting by the scale of depreciation to the sum of eight pounds twelve shillings, in lieu of the original which he hath lost: *Provided nevertheless*, That the said Alexander Madill, previous to obtaining the same, shall enter into bond with sufficient security to indemnify the commonwealth.

Proviso.

Commencement.

2. This act shall commence and be in force from and after the passage thereof.

CHAP. 67.—An ACT concerning James Osborne and others.

(Passed December 12, 1794.)

Preamble.

1. Whereas it has been represented to the general assembly, that some time in the years one thousand seven hundred and ninety, and one thousand seven hundred and ninety-one, the commanding officer of the county of Russell, in virtue of authority from the executive of this commonwealth for that purpose, ordered out two detachments of militia from the county aforesaid, under the command of lieutenant James Osborne, to repel the attacks of the Indian enemy upon the frontier, and that while employed in the expeditions afore-





said, the said detachments were supplied with necessary rations by the good people of that neighbourhood, and it is just and reasonable to retribute as well those who contributed to the support of the said detachments by the supply of provisions, as those who rendered their personal services therein :

2. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby directed and required, on application to him made, to settle and pay the accounts of the expenses incurred in the expeditions aforesaid, according to the directions and provisions of the act, intituled, "*An act to amend and reduce into one act the several acts for regulating and disciplining the militia, and guarding against invasions and insurrections*," passed in the year one thousand seven hundred and eighty-five. Auditor to issue warrants for the pay and expenses of certain militia employed in defending the frontiers.

3. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 68.—An ACT directing a duplicate of a military certificate to be issued to Moore Bell.

(Passed December 11, 1794.)

*Be it enacted*, That the auditor of public accounts shall issue to Moore Bell, a duplicate of a military certificate in the name of Thomas Harris, for thirty-six pounds, dated the tenth day of May, one thousand seven hundred and eighty-three, and numbered four thousand eight hundred and eighty-six, in lieu of the original which the said Moore Bell hath lost: *Provided always, and be it further enacted*, That the said Moore Bell shall previous to the obtaining the said duplicate, enter into bond, with sufficient security to be approved of by the executive, to indemnify the commonwealth and the United States. Duplicate of a military certificate to be issued to Moore Bell. Proviso.

CHAP. 69.—An ACT concerning William Moseley.

(Passed December 15, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby authorized and directed, on proper application to him made, to issue to William Moseley, a warrant on the treasurer for the sum of eight pounds seventeen shillings and six pence, paid by him to a physician for medicine and attendance on a criminal committed in the course of his said Moseley's sheriffalty, to the jail of the county of Powhatan. A sum of money to be paid to him.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 70.—An ACT concerning Ansylum Tupper and John Salmon.

(Passed December 22, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby authorized and required, on application in person or by attorney, to issue to Ansylum Tupper, a warrant on the treasurer for the sum of twelve pounds, to be paid out of the contingent fund, for a horse belonging to the said Tupper, which was impressed to convey a lunatic from the county of Harrison, to the city of Williamsburg, and died in the performance of the journey. Certain sums of money to be paid to Ansylum Tupper.

2. He shall in like manner issue to John Salmon, a warrant for the sum of six pounds thirteen shillings and nine pence, for services And John Salmon.



by him rendered as commissioner of the revenue tax in the county of Henry, for the year one thousand seven hundred and eighty-seven.

Commencement. 3. This act shall commence in force from the passage thereof.

CHAP. 71.—An ACT for granting a sum of money for repairing the governor's house, and for other purposes.

(Passed December 25, 1794.)

Governor's houses  
to be repaired,  
&c.

1. *Be it enacted by the general assembly*, That a sum of money not exceeding eight hundred and thirty-three dollars, be granted for the purposes of repairing the house appropriated to the use of the governor, and of erecting a brick building for the use of the governor's servants, and the executive shall on the undertaker's completing the said repairs, and the said building or either of them, direct the auditor of public accounts to issue a warrant or warrants in his favour on the treasurer of this commonwealth for the money, which shall appear to be due to him, not exceeding the said sum of eight hundred and thirty-three dollars, which shall be paid out of any money in the treasury, except that belonging to the aggregate fund.

Money granted for  
paying for certain  
work performed in  
and about the ca-  
pitol.

2. *And be it further enacted*, That the sum of one thousand dollars be granted for the purpose of paying for the work already contracted for and executed in and about the capitol, and when the balance or balances due for the said work shall be ascertained, the executive shall direct the auditor to issue a warrant or warrants on the treasurer to the person or persons entitled thereto, for the sum or sums respectively due to him or them, which shall be paid as directed with respect to the money granted for repairing the governor's house.

Commencement. 3. This act shall commence in force from the passing thereof.

CHAP. 72.—An ACT for paying the officers of the present general assembly.

[Passed December 24, 1794.]

Allowances to the  
officers of the ge-  
neral assembly.

1. *Be it enacted*, That the allowances to the officers of the general assembly for their services during the present session, shall be as followeth, that is to say: to the chaplain, twenty dollars per week; to the clerk of the house of delegates, one hundred and sixteen dollars and sixty-seven cents per week; to the clerk of the senate, fifty-eight dollars thirty-three cents per week; to the clerk of the several committees of propositions and grievances, and of privileges and elections, thirty-three dollars thirty-three cents per week; to the clerk of the several committees of religion and claims, thirty-three dollars and thirty-three cents per week; to the clerk of the committee for courts of justice, thirty-three dollars and thirty-three cents per week; to the serjeants at arms to the senate and house of delegates, each twenty-eight dollars thirty-three cents per week; to each of the doorkeepers of the senate and house of delegates, sixteen dollars and sixty-seven cents per week; to Thomas Nicolson, for printing the journals of the senate, one hundred dollars; and to the person who cleans the capitol, the sum of thirty-three dollars and thirty-three cents.

Commencement. 2. This act shall commence and be in force from the passing thereof.





## CHAP. 73.—An ACT concerning John Clarke and others.

(Passed December 23, 1794.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts on application to him made either in person or by attorney, shall, and he is hereby authorized and required to issue to John Clarke, a certificate for the military services of his deceased son, Benajah Clarke, who enlisted as a soldier in the regiment stationed at the barracks of Albemarle, and served therein from the month of February, one thousand seven hundred and seventy-nine, until the month of September following. Certificates to be issued to John Clarke.

2. He shall in like manner issue a certificate to Thomas Chandler, senior, the father of Thomas Chandler, junior, deceased, for services rendered by the decedent on board the brig Musquito (belonging to this state) as a marine or seaman during the late war. Thomas Chandler.

3. He shall in like manner issue to Thomas Brooke, a certificate for the services of Reuben Brooke, deceased, rendered by the decedent on board of the said brig at the same period. Thomas Brooke.

4. He shall in like manner issue to William Coleman, a certificate for his services, as a soldier in the state line during the late war, and also for his services as a marine on board of the said Musquito brig. And William Coleman.

5. This act shall commence and be in force from and after the passage thereof. Commencement.

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## RESOLUTIONS.

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### IN THE HOUSE OF DELEGATES,

TUESDAY, December 23, 1794.

*Resolved*, That the executive be requested, to have as many copies as they may think necessary, of the revenue law, the execution law, the law for regulating the fees of clerks, sheriffs and other officers, the law of descents, the law concerning wills and the distribution of intestates' estates, and the law for regulating conveyances, translated into and printed in the German language, and distributed as they may think proper.

December 23, 1794—Agreed to by the senate.

December 9, 1794.

*Resolved*, That the executive be authorized to direct such temporary defensive operations for the protection of the frontiers, as will secure the citizens thereof from the hostile invasions of the Indian enemy, and that the governor be requested to communicate with the president of the United States, for the purpose of establishing adequate and permanent arrangements for the security and defence of the same.

December 22, 1794—Agreed to by the senate.



# ACTS

PASSED AT A

## GENERAL ASSEMBLY

OF THE

### COMMONWEALTH OF VIRGINIA,

BEGUN AND HELD AT THE CAPITOL, IN THE CITY OF RICHMOND, ON  
TUESDAY, THE TENTH DAY OF NOVEMBER, ONE THOUSAND SEVEN  
HUNDRED AND NINETY-FIVE.

CHAP. 1.—An ACT to amend and reduce into one act the several acts of assembly for regulating the militia of this commonwealth.

(Passed December 24, 1795.)

Whereas the congress of the United States, did, at their ses- Preamble.  
sion of one thousand seven hundred and ninety-two, pass an act,  
intituled, "*An act more effectually to provide for the national de-  
fence, by establishing an uniform militia throughout the United  
States,*" and it is expedient for this legislature to carry the same  
into effect, so far as respects this state:

1. *Be it therefore enacted*, That the counties of Accomack, Counties compos-  
Northampton, Princess Anne, Norfolk and the borough of Nor- ing brigades and  
folk, shall compose one brigade; the counties of Nansemond, Isle divisions of mili-  
of Wight, Southampton, Surry, Sussex and Prince George, one tia.  
brigade; the counties of Elizabeth City, Warwick, York, James  
City, Charles City, New Kent, Hanover, Henrico and the cities of  
Richmond and Williamsburg, one brigade; the counties of Gloucester,  
Mathews, Middlesex, Essex, King William, King & Queen,  
Lancaster, Northumberland, Richmond and Westmoreland, one  
brigade; and the said brigades shall compose one division: That  
the counties of Loudoun and Fairfax, shall compose one brigade;  
the counties of Fauquier, Prince William, Stafford and King George,  
one brigade; the counties of Culpeper, Madison, Orange, Spotsyl-  
vania and Caroline, one brigade; the counties of Louisa, Gooch-  
land, Fluvanna, Albemarle and Amherst, one brigade; and the  
said brigades shall compose one other division: The counties of  
Frederick and Berkeley shall compose one brigade; the counties of  
Rockingham, Augusta and Shenandoah, one brigade; the counties  
of Wythe, Washington, Russell, Lee, Grayson and Montgomery,  
one brigade; the counties of Rockbridge, Botetourt, Greenbrier,  
Bath and Kanawha, one brigade; the counties of Hampshire, Hardy,  
Pendleton, Randolph, Harrison, Monongalia and Ohio, one brigade;



and the said brigades shall compose one other division: The counties of Henry, Patrick, Franklin, Campbell and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte and Prince Edward, one brigade; the counties of Dinwiddie, Greensville, Brunswick, Lunenburg and Mecklenburg, one brigade; the counties of Chesterfield, Amelia, Nottoway, Powhatan, Cumberland and Buckingham one brigade; and the said brigades shall compose one other division.

What counties shall form one or more regiments or battalions, and where containing a battalion only, what counties shall be united in order to form a regiment.

2. *And be it further enacted*, That the counties of Loudoun, Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover and Frederick, shall compose two regiments and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Westmoreland and Richmond shall compose two battalions, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall constitute one regiment; that the counties of Charles City and New Kent shall compose one battalion each, which two battalions shall constitute one regiment; that the counties of Elizabeth City and Warwick, shall form one battalion; and the counties of York, James City, and the city of Williamsburg, shall form one other battalion, which two battalions shall constitute one regiment; and each of the other counties in this commonwealth, and also the city of Richmond, and borough of Norfolk, shall compose each two battalions, which two battalions shall constitute one regiment; and every battalion as aforesaid, shall, if convenient, be formed into five companies, each company to consist of not less than fifty nor more than one hundred rank and file.

General officers how appointed and commissioned.

3. *And be it further enacted*, That there shall be an adjutant general for the militia of the state, a major general to each division, and a brigadier general to each brigade, to be appointed by a joint ballot of both houses of the general assembly, who shall reside within the limits of their respective commands. Each major general shall appoint his own aids-de-camp, and each brigadier his own brigade inspector. And the governor, with advice of council, shall commission the several major generals, brigadier generals and the adjutant general who may be hereafter appointed pursuant to this act. And all vacancies hereafter accruing in any of the said offices, shall be supplied by appointments in like manner to be made.

Certain field officers of artillery and cavalry, to be appointed and commissioned.

4. *And be it further enacted*, That the governor, with the advice of council, shall be, and he is hereby authorized and required to appoint and commission to each division, one lieutenant colonel commandant and two majors to command the several companies of artillery and cavalry (as the case may be) annexed to each division, and to arrange such companies of artillery into regiments and battalions in such manner as to them may seem most convenient, to be denominated the \_\_\_\_\_ regiment and \_\_\_\_\_ battalion of the \_\_\_\_\_ regiment of artillery or cavalry (as the case may be) and all returns of the strength and state of the several companies of artillery and cavalry, shall be made by the commanding officers of the several regiments, battalions and companies, under the like





rules, regulations and penalties, as are by law directed with respect to the rest of the militia.

5. *And be it further enacted*, That where it has not been already done, the courts of the several counties and corporations, shall from the field and other officers who hold commissions in the militia, proceed to recommend to the executive the officers necessary to complete the regiments, battalions and companies, pursuant to this act, by grades and seniority; and the persons so recommended, shall be commissioned by the governor, agreeably to the constitution of this state: And all vacancies thereafter happening in the said offices of the militia shall be supplied by appointment of the governor, with advice of the council, or recommendation from the court of the respective county or corporation where such vacancy happens; any thing in any act to the contrary notwithstanding.

Courts of counties and corporations to recommend field officers and officers of inferior rank.

How to be commissioned and how vacancies are to be supplied.

6. All persons who hold commissions under the late militia laws of this state, and who have not been recommended by their respective courts, shall be considered as supernumerary officers, but may be recommended to supply vacancies hereafter happening in the officers of the militia, and in case any supernumerary officer so recommended, shall on such recommendation refuse to serve, such officer shall no longer avail himself of his former commission, so as to claim an exemption from militia duty.

Officers not recommended by courts to become supernumeraries.

7. *And be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in manner aforesaid, shall previous to his entering on the execution of his office, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which such officer resides) to wit: "*I do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of \_\_\_\_\_ in the militia thereof, according to the best of my skill and judgment. So help me God.*" If the said oath be administered by a justice of the peace, it shall be his duty to certify the same to the court of his respective county or corporation, there to be entered of record by the clerk.

Oath of officers.

8. It shall be the duty of the executive to number by ballot the several divisions, brigades, and regiments, and cause the same to be registered in the office of the adjutant general; and every commission hereafter issued by the governor, as aforesaid, shall express the number of the division, brigade, and regiment, respectively, to which the person obtaining the same, shall belong.

Executive to number divisions, brigades and regiments, and cause the same to be registered in the office of the adjutant general.

9. Where commanding officers of regiments have failed to lay off their regimental, battalion and company districts, or where any alteration in districts actually laid off, may hereafter be found necessary, commanding officers of regiments shall assemble the commanding officers of battalions and companies at some fit and convenient place, and may proceed to lay off or alter any such regimental battalion or company district, which districts shall in all cases be designated by certain lines and bounds, and recorded by the clerks of the courts of enquiry, respectively.

Counties to be laid off into districts for forming battalions and companies, and how.

10. *And be it further enacted*, That where it has not been already done, it shall be the duty of the commanding officers of companies, to proceed forthwith to divide their companies into divisions by ballot from one to ten, for the purpose of a regular routine of duty when called into actual service; and to return a roster of each division,

Captains to cause their respective companies to be classed into divisions for the regular performance of duty.



and its number, in rotation, within fifteen days thereafter, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall direct the same to be recorded by the clerk of the court of enquiry. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before drawn for the above purpose, in which case he shall be inrolled accordingly. And every militiaman removing out of the bounds of one company into another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge certifying the class, wherein he was arranged, and whether he had performed his tour of duty or not, and also the time and date of said service; which certificate the said militiaman, shall produce to the captain or commanding officer of the company into whose bounds he shall so have removed, within ten days after his settlement; and such officer is hereby required to inroll him in the numerical class specified therein; and every militiaman so removing and failing to produce such certificate, shall be arranged and inrolled in the class destined to perform the next tour of duty: and if any captain or commanding officer of a company shall refuse to grant such a certificate upon application to him made for that purpose, he shall for such refusal, incur a penalty of thirty dollars, to be assessed and applied as other fines imposed by this act.

Artillery, cavalry, grenadiers, light infantry, and rifle-men, to be allotted into divisions.

11. *And be it further enacted*, That the governor with the advice of council, shall and may cause the several companies of artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted by entire companies into divisions from one to ten, for a regular routine of duty; and the said companies shall in future be called into actual service by entire companies in such manner and proportion, as the rest of the militia, or as the nature of the service may require; and all such allotments shall be returned to the office of the adjutant general to be recorded by him.

Persons exempted from militia duty.

12. *And be it further enacted*, That the members of the council of state, judges of the superior courts, clerks of both houses of the general assembly, clerks of the superior and inferior courts, the attorney general, the treasurer and his clerks, the auditor of public accounts, the register of the land office, and their clerks, all inspectors of tobacco, all professors and tutors, and students of the college of William and Mary, and all other public seminaries of learning, all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county the oath of fidelity to the commonwealth, keepers of the public, district, and county gaols, and of the public hospital, millers actually and necessarily employed in the management of water grist mills legally established, all ferry-men actually and necessarily employed as such, shall, and they are hereby exempted from the performance of all and any part of the duties required by this act: and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies of their being members of such society, shall be, and they are hereby exempted from all service in the militia: *Provided*, They shall furnish a substitute for actual service, to be approved of by the commanding officer of the regiment within whose bounds he





shall reside, and all artificers employed, or who may hereafter be employed at the arsenal at the Point of Fork, during their continuance in that employment: *Provided*, That regimental, battalion, or company musters shall not be considered as actual service within the meaning of this law.

13. *And be it further enacted*, That the commanding officers of companies shall inroll every able bodied white male citizen between the ages of eighteen and forty-five (except such as are exempted by this act) resident within his district; and that in all cases of doubt respecting the age of any person inrolled or intended to be inrolled in any company of militia, the party questioned shall prove his age to the satisfaction of the officers, or a majority of the officers of the company within whose bounds he may reside.

What persons shall be inrolled.

14. *And be it further enacted*, That the governor, with the advice of council, or on the recommendation of the county or corporation courts, shall issue commissions for at least one captain, one lieutenant, and one ensign to each battalion, who shall proceed by voluntary enlistment within their battalion to inroll a sufficient number of men to complete their company or companies, and be distinguished by the denomination of grenadiers, light infantry or riflemen, at the discretion of the commanding officer of the regiment; and every person belonging to said light companies shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officers of the regiment out of the money arising on delinquents, and the said companies shall perform the same routine of duty, and be subject to the same rules, regulations and orders as the rest of the militia. And the governor, with the advice of council, is hereby empowered to appoint and commission at their own discretion the necessary officers for one or more companies of artillery in each brigade, who are hereby authorized and empowered to enlist by voluntary enlistments, and in such proportion to each officer respectively so appointed, as the executive shall direct, a company or companies, to be denominated the company of artillery; in like manner commissions may issue for the necessary officers for one or more troops of cavalry in each brigade, who shall also by voluntary enlistments, and in the same proportion to their respective ranks, enlist a company or companies, to be denominated the company of cavalry. And all and every officer or officers so appointed, who shall fail to enlist or complete his quota, within three months after receiving his commission, shall at the discretion of the executive, (unless good cause be shewn to the contrary) be discontinued.

Officers necessary for companies of grenadiers, light infantry, riflemen, and artillery, to be appointed by the executive.

15. *And be it further enacted*, That there shall be a muster of each troop of cavalry and company of artillery once in every two months, except the months of January, February, March, and December, in every year: And it shall be the duty of the captain or commanding officer of every such troop or company, and they are hereby required at each and every muster, to call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof upon oath to the commanding officer of the regiment within whose bounds such delinquent may reside, to be reported and proceeded against in like manner as other delinquents. And it shall be lawful for any commissioned officer of cavalry or artillery to sit in any court of enquiry and assessment of fines, to which any person in their respec-

Musters of artillery and cavalry, how often; and in what cases officers thereof may sit in a court of enquiry.



tive companies is reported a delinquent: *Provided*, That it shall not be lawful for more than one such officer of cavalry and artillery to sit in such court at the same time.

Musters of the militia generally, when and how often, and how to be notified.

16. There shall be a muster of each company of militia once in every two months, except the months of December, January, February and March, in every year, to be appointed by the commanding officer thereof at such place as he shall think most convenient within his district; and there shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officer of the regiment to which such battalions respectively belong, at such place as he deems most convenient within the battalion district; and there shall be a muster of each regiment in the month of October, in every year, to be appointed by the commanding officer of the brigade to which such regiments respectively belong, at such place as he shall think most convenient within the regimental district; which said company, battalion, and regimental musters, shall continue one day, and no longer; the time and place of such regimental musters shall be notified to the commanding officers of regiments forty days previous thereto; the commanding officers of regiments shall give notice to the commanding officers of battalions at least thirty days; the commanding officers of battalions to the commanding officers of companies at least twenty days; and the commanding officers of companies to their sergeants at least ten days; and the sergeants to each person in his company at least three days before such muster: The notices to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing, delivered to each person to be notified, or left at his usual place of abode: And every serjeant failing to give notice agreeably to the commanding officer of his company to each person therein, shall forfeit and pay for each and every offence three dollars; to be assessed and recovered as other fines imposed by this act: *Nevertheless*, All notices publicly given by the commanding officers of companies at their respective musters, of any subsequent muster, shall be held and deemed as legal notice within the meaning of this act, as to all persons present at such musters; any thing herein to the contrary notwithstanding. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster the commanding officer of the company shall call his roll, examine every person belonging thereto, and note down all delinquencies accruing therein, and make return thereof at or before the next regimental or battalion court of enquiry, to the commanding officer of his battalion, including those which occurred on the day of his last regimental or battalion muster; and the commanding officers of regiments and battalions shall at their respective regimental or battalion muster (as the case may be) take notice of all delinquent officers; and shall lay the same together with the returns of delinquencies from the commanding officers of companies before the court of enquiry appointed under this act, to take cognizance of, and determine on them; and to each of the said returns shall be annexed the following certificate, to wit: "*I do certify that the returns hereto annexed, contain all the delinquencies which have occurred since my last return, having duly examined the same.*"

Regular returns of militia to be made.

17. Every commanding officer of a company shall within ten days after every regimental or battalion muster, make up and report to





the commanding officer of his battalion, a return of his company in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments within ten days thereafter, who shall cause the adjutant of his regiment to make regimental returns to their respective brigade inspectors, within twenty days thereafter.

18. And whereas it may be improper that the militia in the frontier counties should be drawn from their dwellings in times of danger, merely for the purpose of training, *Be it enacted*, That the commanding officers of brigades on the frontiers of this state, may dispense with the execution of this law, so far as relates to training the militia in regiments and battalions within their commands, as they shall judge expedient; and they shall instruct their brigade inspectors accordingly.

Commanding officers of brigades may exempt the militia of the frontier counties from mustering in regiments and battalions, in certain cases.

19. Each captain or commanding officer of a company shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion.

20. In all cases of death, absence, or resignation of any major general, brigadier general, lieutenant colonel commandant, major, captain, or lieutenant, the next officer in rank, in his respective commands, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

In case of the death of any officer, &c. officer next in rank to succeed to the command.

21. It shall be the duty of every commanding officer of a regiment, battalion, or company, at their respective musters, to cause the militia to be trained and exercised agreeably to the mode of discipline prescribed by congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorized to order the most expert and fit officer in their respective commands, to perform that duty.

22. And in order that a knowledge of the rules of discipline may be more readily obtained, *Be it enacted*, That the commissioned officers of the several regiments shall meet once in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors; the days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments belong. The officers thus assembled, shall each continue four days and no longer every time they are so called out. The eldest officer present shall call the roll on each day, and report the delinquencies to the succeeding regimental court of enquiry; and every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by the court of enquiry, shall forfeit and pay for each day which he shall fail so to attend, five dollars, to be appropriated as the other fines are by this act: *Provided always*, That where there is more than one regiment in a county, all the commissioned officers of the respective regiments in such county shall meet together at such place as may be appointed by the commanding officer of the brigade, for the purpose of being trained and instructed pursuant to this act.

Officers to meet for the purpose of being trained by the brigade inspectors once annually.

23. And to the end that a general knowledge of the rules of discipline established by congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorized and required to

Rules of discipline as established by congress, to be printed and distributed among the several commis-





sioned officers of  
the militia.

procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia one copy, and cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation or removal of any officer, the book delivered him shall revert to the public, and be returned to the commanding officer of the regiment, to be by him delivered to the officer filling the vacancy occasioned by such death, resignation or removal. And for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officer guilty of  
misbehaviour  
when on duty to be  
arrested.

24. Any officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

Noncommissioned  
officers behaving  
amiss on duty, how  
punished.

25. If any noncommissioned officer or soldier shall behave himself disobediently or mutinously when on duty, or before any court or board directed by this act to be held, the commanding officer, court or board, may confine him for the day; and he may moreover be fined at the discretion of the court of enquiry, in any sum not exceeding ten dollars; to be appropriated as other fines imposed by this act.

Penalty on bystanders  
guilty of mis-  
conduct at mus-  
ters, &c.

26. If any bystander shall interrupt, molest or insult, any officer or soldier while on duty, at any muster, or shall be guilty of like conduct before any court or board, the commanding officer or such court or board, may cause him to be confined for the day.

Forfeitures and  
penalties imposed  
for neglect of any  
duty required by  
this act.

27. And for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz: By a lieutenant colonel commandant or commanding officer of a regiment, for failing to take an oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a battalion muster, or failing to give notice of a regimental muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding seventy dollars; for failing to send into actual service any militia legally called for, or to turn out his militia upon an invasion or insurrection of his county, three hundred dollars; by a major, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding thirty dollars; for failing to call forth from his battalion with due dispatch, any detachment of men or officers as shall be required from time to time by the commanding officer of his regiment, on any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, one hundred and fifty dollars; by a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, or to allot his company into divisions from one to ten, for a regular routine of duty, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and



neglect, a sum not exceeding twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on such occasion to repair to the place of rendezvous, he shall forfeit and pay seventy-five dollars; by a subaltern officer for failing to take any oath, to attend any court or muster armed as directed, for each and every such offence he shall forfeit and pay a sum not exceeding ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay fifty dollars, to be adjudged of and determined by the respective regimental courts of enquiry; by a noncommissioned officer or soldier, for failing to repair to his rendezvous, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay a sum not exceeding eighty dollars, to be adjudged of and determined by their respective battalion courts of enquiry, and moreover shall be inrolled in the class destined to perform the next tour of duty. All officers failing as before mentioned shall be subject to be arrested, tried, censured or cashiered at the discretion of their respective battalion courts of enquiry. Any noncommissioned officer or soldier, failing to attend at his regimental, battalion or company muster, armed and equipped as the law directs, shall forfeit and pay seventy-five cents. If any noncommissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may, if it appear reasonable, remit the fine incurred by him: *Provided*, Every such delinquent who hath a firelock of any kind shall make it appear that he brought the same to the muster. Any private on the ground at a regimental, battalion or company muster, who shall refuse to go into the ranks when required, shall forfeit and pay four dollars.

23. And whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, and for enquiring into certain delinquencies and assessing fines: *Be it enacted*, That the governor or commanding officer of the militia of this state, shall have power, for misconduct within his own knowledge, or upon complaint lodged in writing by any commissioned officer, to arrest and order a court martial of the state for the trial of the adjutant general, a major general, or brigadier general, to be composed of one major general, not more than four brigadier generals, and as many lieutenant colonel commandants and majors, as shall make up a number not less than thirteen; and such courts martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final, saving an appeal to the executive. And any major general or brigadier general, for misconduct within their own knowledge, or upon complaint lodged in writing by any commissioned officer, shall have power to arrest any lieutenant colonel commandant, aid-de-camp, brigade inspector and major, or any other inferior officer; and the commanding officer of the division, shall order a court martial, for the trial of such lieutenant colonel commandant, aid-de-camp, brigade inspector or major, to be composed

Tribunals instituted for the trial of offences as they are to be viewed in a military light.





of one brigadier general, and as many lieutenant colonel commandants, majors and captains, as shall make up a number not less than thirteen; and such courts martial shall proceed to hear and determine on all offences under this act, and may censure or cashier such officer, which sentence shall be final; saving to the party an appeal to the executive. And any brigadier general, lieutenant colonel commandant, or major, for misconduct in any captain or subaltern within his own knowledge, or upon complaint lodged in writing by any commissioned officer, may arrest such captain or subaltern; and the brigadier or commanding officer of the brigade shall order a brigade court martial for the trial of such captain or subaltern, to be composed of one or more field officers, and a sufficient number of captains and subalterns, to make up a number not less than thirteen; and such courts martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final; saving to the party an appeal to the executive. And in all cases of appeal, the party making the appeal, may demand of the clerk or judge advocate of the court martial, a full copy of the proceedings had thereon, to be laid before the executive, who shall determine agreeably to the right of the case. And for obtaining the necessary evidences for the trials aforesaid, the commanding officer of the state, division or brigade, (as the case may be,) shall issue his summonses; and every person so summoned, failing to attend, shall be subject to and may be tried by a court martial; and if an officer, may at the discretion of a court martial, be cashiered or fined, not exceeding six months pay as by law allowed; and if a noncommissioned officer or soldier, to be reported to the court of enquiry of the regiment to which he shall belong, and be then subject to such fines and penalties as they may think proper to inflict, not exceeding six months pay.

Battalion courts of enquiry for assessment of fines incurred in such battalion.

29. *And be it further enacted*, That there shall be battalion courts of enquiry, to be appointed by the commanding officer of the battalion, for the assessment of fines incurred under this act in such battalion, and such courts of enquiry shall be held within fifteen days after each battalion and regimental muster, at or as near as shall be convenient to the place where the last battalion muster was held, and to consist of the commanding officer of the battalion, and the commanding officers of companies, or a majority of them, who shall take the following oath, to be administered by the presiding officer, and afterwards by any other officer of the said court to him, to wit: "*I will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favor, partiality or affection. So help me God.*" The commanding officer of the battalion shall then lay before the said court all delinquencies as directed by this act; whereupon they shall proceed to hear and determine: And there shall moreover be a regimental court of enquiry in each year for the assessment of fines incurred by the officers of the regiment, and such court of enquiry shall be held by appointment of the commanding officer, in not less than ten nor more than twenty days after the last battalion court of enquiry; to consist of the commanding officer of the regiment, battalions and companies, or a majority of them, who shall take an oath in manner and form as prescribed above. The commanding officer of the regiment shall then lay before the said court all delinquencies as

Oath to be administered.

Regimental courts of enquiry for the assessment of fines incurred by the officers of the regiment.



directed by this act, whereupon they shall proceed to hear and determine. It shall be the duty of the presiding officer of each and every such court of enquiry, to return to the next regimental court of enquiry, all delinquent officers, failing to attend the preceding court, to be proceeded against according to law. The regimental court of enquiry, may, for good cause shewn, remit any fine imposed by the two preceding battalion courts. The said court may also exempt any militiaman from duty on account of bodily infirmity, and may again direct such person to be inrolled when able to do duty.

30. The respective regimental courts of enquiry, where it has not already been done, shall, at their first court, to be held under this act, appoint by ballot, a clerk and provost marshal, who shall attend the courts herein before directed to be held. Such clerk shall keep a fair record of the proceedings of such courts, as also of the roster, returned by the several captains or commanding officers of companies, for regular routine of duty, and shall make out for the sheriff, a fair list of all the fines assessed by the regimental and battalion courts, and one other list, which shall be transmitted to the executive, on or before the first day of May next, after such regimental court was holden in each year, and all other duties required by this act, and together with the provost marshal, shall receive such allowance, to be paid out of the fines, as the court shall think reasonable.

Clerks and provost marshals to be appointed, their duties, and how their services shall be compensated.

31. All fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof, certified by the clerk of the court of enquiry, and delivered to the sheriff, on or before the first day of January in every year; who shall give his receipt therefor, and having deducted a commission of six *per centum*, shall account for, and pay the residue into the public treasury, on or before the first day of October next thereafter, under the same penalties, and subject to the same mode of recovery, as are prescribed by law with respect to the collection of the taxes. And should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorized to make distress and sale therefor.

All fines assessed by virtue of this act, to be collected by the sheriff of the respective counties, with power of making distress and sale.

32. Whatever fines shall be thus paid into the public treasury, by virtue of this act, shall be held as a fund for defraying the salaries of the officers hereinafter mentioned, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state. And the treasurer shall keep a separate book of the same and the expenditures thereof.

Fines arising under this act how appropriated.

33. The lieutenant colonel commandant shall cause to be purchased out of the money arising from the fines, a set of colours for each regiment, and also a set of colours for each battalion; he shall also procure in like manner for each company a drum and fife, or bugle horn; and on the colours and drums shall be marked the number of the regiment and the battalion, together with the name of the county to which they belong. And whereas it is represented that sundry captains of companies have already advanced money for the purchase of drums and fifes for the use of their respective companies: *Be it enacted*, That in such cases the sheriff, upon a certificate from the lieutenant colonel commandant of the regiment to which such captain shall belong, shall refund the money to the said captain, which shall have been thus advanced, for which the sheriff shall have credit

Commandants of regiments to provide regimental and battalion colours for his regiment; and music for the several companies therein.





in the settlement of his account with the auditor. And whereas sundry other charges and expenses are authorized herein: *Be it enacted*, That the sheriff having a draught or draughts from the lieutenant colonel commandant, shall be authorized to discharge the same, for which, as well as all insolvencies duly certified by the clerk of the court of enquiry, he shall be allowed on a settlement between the auditor and sheriff.

Executive may call forth militia to suppress invasions and insurrections, and appoint the requisite staff.

34. *And be it further enacted*, That the governor, with the advice of council, be authorized and empowered, on an invasion or insurrection, or probable prospect thereof, to call forth such a number of the militia, and from such counties as they may deem proper; and for the accommodation, equipment and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff as to him shall seem proper, and to fix their pay and allowances; and shall also take such measures for procuring, transporting, and issuing all orders which may be necessary, as to him shall seem best. Orders for the militia to be called forth as aforesaid, shall be sent to the commanding officers of brigades with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number and ranks of officers by detail and rotation of duty.

Lieutenant colonel commandants of regiments furnishing detachments to procure wagon, team and driver, and certain camp utensils.

35. The lieutenant colonel commandant or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a wagon, team and driver, six axes and six camp kettles or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over; and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court hereinafter appointed for enquiring into delinquencies: And to the end that if any article impressed be lost, the owner may be paid for the same, the lieutenant colonel commandant or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed without any allowance for the use; and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer is hereby authorized and required to prosecute a suit against such officer for the recovery of damages, for the use of the commonwealth.

In case of the nonattendance of necessary officers, executive to supply deficiency.

36. If it shall appear to the executive upon a calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor, with the advice of council, is hereby authorized to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachments so raised.

Commanding officer may call out the militia in certain cases.

37. If a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer of the militia of such county is hereby autho-





rized and required to order out the whole or such part of the militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties for such aid as he may think necessary, who shall forthwith in like manner furnish the same.

38. Whenever any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war, which govern the troops of the United States. And courts martial shall be held as therein are directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary; and when any militia shall be in actual service of the state, they shall be allowed the same pay and rations as are allowed by law to the militia of the United States.

Militia in actual service to be governed by the articles of war.

39. *And be it further enacted*, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, appoint an officer, or noncommissioned officer (as the case may be) and so many men of the militia as to him shall seem necessary, once in every month, (or oftener if thereto required by such officer) to patrolle and visit all negro quarters and other places, suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling from one plantation to another, without a pass from his or her master, mistress, or overseer, and take them before the next justice of the peace, who if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back, and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrolle, the officer of every party shall once in every month at least, return a report in writing upon oath, to the court of the county in which he shall reside, and if the said court shall judge the said patrollers to have performed their duty according to law, they are thereupon empowered to levy seventy-five cents for every twelve hours each of them shall so patrolle; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure; and every serjeant failing to notify the number of privates ordered by such officer, or to attend such patrolle, shall forfeit and pay for every such failure three dollars, and every patrolle failing to attend such patrolle and do his duty, shall forfeit and pay one dollar: which fines shall be laid, collected, accounted for, and appropriated as is herein directed, for laying, accounting for and appropriating the several fines and penalties by this act directed.

Patrolles to be appointed under a certain penalty and by whom.

Officers of the patrolle to make report, and such patrollers thereupon to be compensated.

Penalty on serjeants failing to notify or attend--and on patrollers to attend such patrolle.

40. *And be it further enacted*, That the adjutant general shall be allowed four hundred dollars *per* year, and that each brigade inspector shall be allowed two hundred dollars *per* year, for the duties herein required of them, to be paid by the treasurer on warrant from the auditor, who is hereby authorized and required to grant the same quarter yearly, on proper application being made. *And be it further enacted*, That the adjutant general shall, and he is hereby required to establish and keep, either in person, or by

Adjutant general and brigade inspectors, their pay; the former to keep an office in the city of Richmond; penalty on the latter for failing to attend the regimental musters.



deputy, an office in the city of Richmond, for the necessary transaction of the business annexed to that office. And every brigade inspector failing to attend the several regimental musters of the brigade, shall pay for every such failure fifty dollars.

Resignations how made, and vacancies occasioned thereby supplied.

41. The commanding officers of regiments are hereby empowered to receive the commission of any officer of his regiment who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Arms exempted from distress and executions, &c.

42. All arms, ammunition, and equipments of the militia shall be exempted from executions and distresses at all times, and their persons from arrests and process in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

Militia of incorporated towns governed as other militia.

43. The militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

Fines on infants and apprentices, by whom to be paid.

44. The fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian, or master.

Lieutenant colonel commandants to appoint a regimental staff: Duty of and allowance to the adjutant.

45. It shall be lawful for the lieutenant colonel commandants, and they are hereby required to appoint a regimental staff, to consist of one adjutant, one quarter master, one pay master, one surgeon, one surgeon's mate. And it shall be the duty of the adjutant, to attend the several regimental and battalion musters, as also the meeting of the officers within his regiment, to assist in the necessary training of the militia, and shall be entitled to receive for such service such compensation as shall be adjudged and allowed by the regimental court of enquiry, to be paid by order of the commanding officer of the regiment out of the fines to be collected by virtue of this act.

Persons to be appointed and paid for the conveyance of orders relating to the militia.

46. And whereas inconveniences have arisen from the want of a safe and speedy conveyance of orders from the major and brigadier generals, to the commanding officers of corps, respecting the militia of this commonwealth: For remedy whereof, *Be it enacted*, That the major generals and brigadier generals are hereby empowered and authorized to employ some person within their respective districts, to convey all such orders, who shall be exempt from all other militia duty, and shall receive such compensation as the court of enquiry of the regiment in which district he shall reside shall think proper, on his producing a certificate to the court of his having discharged the said services.

The governor to cause this, the acts of congress relating to the militia, and the articles of war, to be printed in such manner as he may deem requisite.

47. *And be it further enacted*, That the governor shall cause a sufficient number of copies of this law, together with the act of congress, "*More effectually to provide for the national defence by establishing an uniform militia throughout the United States*," and the act of congress, "*For calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions*," and the articles of war, to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy: And whereas the establishment of music in the several corps of militia would be of great utility; to this end therefore, *Be it enacted*, That the commanding officers of regiments shall cause the drummers and fifers of their respective regiments to meet at the same times and places that commissioned officers are required to meet, for the purpose of

Drummers and fifers to meet when commissioned officers meet, and to be compensated.





being trained by the brigade inspector, there to be instructed in their respective branches of music, for which purpose the commanding officer of the regiment may employ such persons as he may think proper, and capable to instruct such drummers and fifers. The person so to be employed by the commanding officers of regiments shall be allowed while engaged in that service two dollars *per* day, and each drummer and fifer shall be allowed during the time they are so convened one dollar *per* day, to be paid out of the money arising from fines.

48. *And be it further enacted*, That all acts and parts of acts, Repealing clause. coming within the purview of this act, shall be, and are hereby repealed.

49. This act shall commence and be in force from and after the Commencement. first day of February next.

CHAP. 2.—An ACT to continue and amend the act, intituled, “An act to continue and amend the act, intituled, ‘An act for further continuing and amending the act, intituled, ‘An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors.’”

(Passed December 17, 1795.)

1. *Be it enacted*, That the act, intituled, “An act for further continuing and amending the act, intituled, ‘An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors,’” passed on the tenth day of December, in the year of our Lord, one thousand seven hundred and ninety-three, and one other act to continue and amend the said act, passed on the twenty-fourth day of December, in the year of our Lord, one thousand seven hundred and ninety-four, shall be, and the same are hereby made perpetual, except so much thereof, as relates to replevy bonds to be entered into by the debtor or debtors in case the goods or other estate taken in execution cannot be sold for three fourths of the value thereof, and except also so much thereof, as relates to other bonds to be taken on twelve months credit from the purchasers of the said goods and estate, in case the same shall not be replevied by the said debtor or debtors, and the proceedings on the said replevy bonds, and bonds taken from purchasers as aforesaid, subject to the regulations hereinafter made.

Acts herein recited made perpetual under certain exceptions.

2. Every bond to be entered into by the debtor or debtors to replevy, or by purchasers in case of a failure of such replevin, for property taken by virtue of any execution, which shall issue after the last day of December, in the year of our Lord, one thousand seven hundred and ninety-five, and before the first day of June, in the year of our Lord, one thousand seven hundred and ninety-six, shall be made payable on or before the expiration of nine calendar months from the date thereof. Every such bond to be entered into on any execution which shall issue between the last day of May, in the year of our Lord, one thousand seven hundred and ninety-six, and the first day of January, in the year of our Lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of six calendar months from the date thereof. And every such bond to be entered into on any execution which shall issue between the last day of December, in the year of our Lord, one thousand seven hundred and ninety-six, and the first day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of

Replevin and other bonds entered into for property taken under any execution issued after a fixed period, how and when to be made payable.



three calendar months from the date thereof. All which said bonds to be entered into by virtue of this act, shall be taken in the same manner and form, save only as to the time of payment, as the like bonds upon twelve months credit were directed to be taken in the aforementioned acts; and the like remedies in all respects shall be had thereon.

No bond to be received for property taken and sold under any execution which may issue after the last day of July, in the year 1797.

3. After the last day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, so much of the aforementioned acts as permits debtors to replevy their goods taken in execution, or in case of a failure of such replevin, authorizes the sheriff or other officer to sell the said goods on credit, shall so far cease, that it shall not be lawful for any sheriff or other officer to receive any such bonds for property taken by virtue of any execution, which shall issue after the said last day of July, in the year of our Lord, one thousand seven hundred and ninety-seven, aforesaid; but the creditor shall still be authorized to pursue the same remedy, for obtaining the money or tobacco which may remain or become due on any such bond, as if every part of the said recited acts had continued in full force.

Courts on the motion of any assignor or assignors of any twelve months bonds, authorized to award execution against the original obligor or obligors.

4. *And be it further enacted*, That where it hath or shall hereafter happen, that any assignee or assignees, their executors or administrators, hath, or shall issue an execution, against any assignor or assignors, or their executors or administrators, on any twelve months bond taken under the aforesaid acts, and the sheriff or other officer hath, shall or may make the money or tobacco, or any part thereof on such execution, in every such case, it shall and may be lawful for the court from whose office such execution shall or may have issued, upon the motion of any such assignor or assignors, their executors or administrators, to award execution against the original obligor or obligors, in such bond, their executors or administrators, or either of them, or against any prior assignor or assignors of said bond, their executors or administrators, or either of them, for all and every such sum of money or tobacco so paid, with legal interest thereon, from the time the same was or shall have been paid, and the costs: *Provided*, Such party against whom such motion shall or may be made, have ten days previous notice thereof; and upon every such execution the sheriff or other officer shall take no security. And for the better direction of such officer, the clerk shall endorse upon every such execution, "That no security of any kind is to be taken."

Proviso.

Assignor may have like remedy against any prior assignor of any such bond.

5. *And be it further enacted*, That in every case where any assignor or assignors of such bond, or their executors or administrators, shall suffer in manner aforesaid, he or they shall have the like remedy against any prior assignor or assignors of such bond, if any such there be, or their legal representatives, or either of them, as well as against the original obligor or obligors, and their legal representatives, or either of them.

CHAP. 3.—An ACT to amend the act, intituled, "An act for the safe keeping of prisoners committed under the authority of the United States, into any of the jails of this commonwealth."

(Passed December 11, 1795.)

Preamble.

Whereas the marshal of the district of Virginia, and his deputies, have conceived themselves to be authorized by virtue of an act of assembly, passed in the year one thousand seven hundred and





eighty-nine, intituled, "*An act for the safe keeping of prisoners committed under the authority of the United States into any of the jails of this commonwealth,*" to convey debtors and other persons arrested on mesne process, or under execution, to jails at a great distance from their families and homes: And whereas it is highly improper that a discretion so mischievous and oppressive as to be denied to the citizens of this commonwealth, should be exercised in favour of the subjects of foreign nations:

1. *Be it therefore enacted*, That henceforward no debtor or other person arrested on mesne process, or under execution, by the marshal or any of his deputies, shall be conveyed to any other jail than that of the corporation, county, or state judiciary district within which such debtor, or other person may reside. So much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

Persons arrested by the marshal or his deputies, what jails to be conveyed to.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 4.—An ACT authorizing one or more branches of the bank of the United States, in this commonwealth.

[Passed December 10, 1795.]

1. *Be it enacted by the general assembly*, That it shall and may be lawful for the president and directors of the bank of the United States, to establish an office or offices of discount and deposit in this commonwealth, and to demand and receive for or upon its loans and discounts, at the rate of six *per cent. per annum* for a longer or shorter time. Any law to the contrary thereof, notwithstanding.

President and directors of the bank of the United States, authorized to establish offices of discount and deposit in this commonwealth.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 5.—An ACT supplemental to the act, intituled, "*An act to amend the act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue.*"

(Passed December 25, 1795.)

Whereas it is represented, that there are many tracts of patented land in this commonwealth, which it is not in the power of the commissioners appointed agreeably to the act, intituled, "*An act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue,*" precisely to ascertain and value agreeably to the meaning of the said recited act:

1. *Be it therefore enacted by the general assembly*, That in all cases where the commissioners shall not be able to find any lands subject to taxation, as aforesaid, it shall be their duty, and they are hereby required and directed, to publish a list of all such lands at the door of their respective courthouses, at least three several court days successively, and in case the owner or owners, his, her, or their agent or attorney, shall not within one month thereafter, shew the same to the said commissioners, they shall proceed to tax the said lands, agreeably to the best information they can obtain, and class the same accordingly; any thing in any law to the contrary notwithstanding.

Commissioners when unable to find lands subject to taxation, shall publish and proceed to tax the same from the best information attainable.

2. This act shall commence in force from the passing thereof. Commencement.





## CHAP. 6.—An ACT making provision for support of civil government.

(Passed December 17, 1795.)

Taxes on lands,  
slaves and other  
property.

1. *Be it enacted by the general assembly*, That the public taxes for the year one thousand seven hundred and ninety-five, shall be as follows, to wit: On lands, for every hundred pounds value agreeable to the equalizing law, five shillings; for every slave above the age of twelve years (except such as have been or shall be exempted by reason of age or infirmity, by the respective county or corporation courts) one shilling and eight pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season; for all other horses, mules, mares and colts, four pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight pence on every hundred pounds of the rent thereof, to be ascertained by the rent paid by the tenant; and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed, whose judgment as to the yearly rent or value, shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare upon oath or solemn affirmation, what is the amount of rent paid for the same; and every person so called upon and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commissioners of the revenue or either of them; for every four wheeled riding carriage, except phaetons and stage waggons, six shillings per wheel; for all phaetons and stage waggons, four shillings per wheel; for every other riding carriage with two wheels, two shillings per wheel: *Provided*, That no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

On process and appeals.

2. *And be it further enacted*, That the following tax on law process shall be paid; on each writ or declaration in ejectment, instituting a suit in the district court, or subpœna in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, *supersedeas*, and *habeas corpus cum causa*, or *certiorari*, issued from the general court, a district court, or high court of chancery, one dollar; on each appeal from any county court, or court of hustings, to a district court, one dollar: The said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar. No writ, subpœna, or any writ of error, *supersedeas*, *certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon be first paid down. In all appeals no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court before the tax thereon be paid. Nor shall any certificates under the seal of any county or corporation court be granted, until the tax thereon shall have been

On certificates under county court seals.



first paid to the clerk keeping such seal. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land office before the issuing of the patent. For every attestation, protestation, and all other instruments of publication, from a notary public under his seal of office, fifty cents, to be collected and accounted for by the said notary public; and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council before the delivery of such certificate; which last mentioned taxes shall be accounted for and paid in like manner, and with the like commissions for collecting, as is directed in the case of other taxes imposed by this act.

3. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 7.—An ACT for appropriating the public revenue.

(Passed December 19, 1795.)

1. *Be it enacted by the general assembly,* That all taxes and arrearages of taxes, except the arrearages of the certificate tax, and all branches of revenue, which shall arise to the commonwealth, between the last day of December, one thousand seven hundred and ninety-five, and the first day of January, one thousand seven hundred and ninety-seven, shall constitute a general fund, and be appropriated to the support of the civil government, and for the contingent charges thereof, and shall also be charged with the payment of all unsatisfied warrants charged on the said taxes and arrearages of taxes by the act of the last session of assembly, intituled, "*An act for appropriating the public revenue,*" of warrants which shall be hereafter issued for expenses attending criminal prosecutions; for slaves condemned and executed; for the state's shares in the Dismal swamp canal company; for the hospital for the cure and maintenance of persons of unsound mind; to the directors of the public buildings; for the expenses attending the arsenal at the Point of Fork; for all pensions allowed by this commonwealth; for salaries allowed by law to certain officers of the militia; of warrants which shall be issued by the auditor of public accounts, in the year one thousand seven hundred and ninety-six; for interest on any debt due by this commonwealth; and for the payment of all sums directed to be paid by the present general assembly, for which no other provision has been made. Taxes constituting a general fund.  
Appropriation thereof.

2. And if the funds herein appropriated to the payment of the officers of the civil government, and of warrants issued by the executive for the contingent purposes thereof; on account of the state's shares in the Dismal swamp canal company; for the hospital for the cure and maintenance of persons of unsound mind; for pensions due by this commonwealth; and for salaries allowed by law to certain officers of the militia, should not be productive early enough for those purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money, as shall be deficient, out of any other funds, and to replace the same as soon as possible. Deficiency in certain funds, how supplied.

3. All acts coming within the purview of this act, shall be and are hereby repealed. Repealing clause.

4. This act shall commence and be in force from and after the passing thereof. Commencement.





CHAP. 8.—An ACT for collecting and publishing all the acts of the legislature concerning lands.

(Passed December 4, 1795.)

Preamble.

Whereas it is represented to the present general assembly, that an opportunity now exists of collecting all the acts of the legislature, which in any manner relate to the landed property within the commonwealth: And whereas for the preservation of a multitude of rightful titles to land, it is necessary and expedient that a collection of such laws should be made and printed:

Laws concerning land, collation of to be made and published.

1. *Be it enacted by the general assembly, and it is hereby enacted,* That a collation be made of all and singular the laws, and parts and clauses of every law, whether private or public, relative to all and singular the lands, teneiments and hereditaments whatsoever, or any of them within this commonwealth, at any time heretofore passed, and enacted, from the first settlement of Virginia, until the first day of October, in the year one thousand seven hundred and ninety-three, which shall be printed and published in octavo, well bound in calf skin.

Persons authorized to make the said collation and appoint a clerk, and determine his allowance; to be approved by the executive.

2. *And be it further enacted,* That George Wythe, John Brown, John Marshall, Bushrod Washington, and John Wickham, or any three of them be, and hereby are requested and authorized, to collate the said laws, and to control, direct, superintend and revise the edition thereof; and for this purpose to appoint a clerk to assist in the work, and especially in the making marginal notes, and an index thereto, who shall be paid a reasonable compensation for his service, to be determined by the persons herein before named, and approved by the executive.

Number of copies, and how disseminated and disposed of.

3. *And be it further enacted,* That the edition consist of at least one thousand copies, one of which shall be sent or delivered by the executive to the clerk of each house of the general assembly, one to the clerk of the executive for their use, one to the register of the land office, and one to each and every clerk of any court of record in the commonwealth, and the residue shall and may be sold, and the proceeds paid by the printer into the public treasury, for and on account of the commonwealth, for the purpose of reimbursing the public treasury, the costs and expenses of the said edition, which shall and may be paid and advanced, out of the contingent fund.

Until the costs are reimbursed, printer and other persons prohibited from selling any of the said books, and to take an oath and enter into bond accordingly.

4. *And be it further enacted,* That until a sum sufficient for reimbursing the costs aforesaid shall be raised from the sale as aforesaid directed, it shall not be lawful for the printer, directly or indirectly, or any other person, to vend or suffer to be sold any of the said books, otherwise than for the use of the said commonwealth, as aforesaid; and the printer to be employed shall take an oath and give bond and security at the time of contract, well and truly to demean himself in all things according to the directions of this act, which oath may be taken before any magistrate and certified and transmitted with the bond to the executive.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.



CHAP. 9.—AN ACT to amend the act for reducing into one, the several acts concerning the land office; ascertaining the terms and manner of granting waste and unappropriated lands; settling the titles and bounds of lands; directing the mode of processioning; and prescribing the duty of surveyors.

(Passed December 23, 1795.)

Whereas it has been represented to this general assembly, that the act, "*For reducing into one the several acts concerning the land office; ascertaining the terms and manner of granting waste and unappropriated lands; directing the mode of processioning; and prescribing the duty of surveyors,*" is imperfect and productive of much inconvenience to this commonwealth and its citizens: For remedy whereof,

1. *Be it enacted*, That the register of the land office be, and he is hereby restrained from receiving in future into his office, any plat and certificate of survey which evidently comprehend the rights of others, and bear date subsequent to the first day of January next, notwithstanding any deductions or reservations; and all such surveys hereafter made, shall henceforth be deemed illegal and void; but the party shall nevertheless retain all such right as he may have derived under the act aforesaid, by means of his location upon any waste and unappropriated land within this commonwealth.

Register inhibited from receiving certain surveys.

2. *Be it enacted*, That the warrant or warrants, on which a survey is founded, shall accompany the same to the land office, with a statement on the back of the warrant or warrants from under the hand of the principal surveyor, specifying the location or locations made thereon, and of the quantity actually satisfied by survey. And should more than one survey be made by virtue of one warrant, the same shall accompany the first survey, and a certificate the after survey, purporting in what previous survey the same was sent; and in case the warrant or warrants so sent, be not wholly located, then the claimant or claimants shall procure an exchange warrant or warrants from the register, as he, she, or they may elect for the residue. And in future no surveyor shall be authorized to receive locations or entries in his office upon a certificate of another surveyor.

Warrants to accompany surveys.

Surveyors not to receive entries, &c. on certificate of another.

3. *And be it further enacted*, That on all plats and certificates of survey already returned to the register's office, or which shall hereafter be returned, that the register issue grants in the name of the person or persons, or their assignees, in whose name the survey is made, and to no other person; and that he shall not deliver the grants to any person but those in whose name they shall issue, or their order attested by one witness, which orders he shall carefully file and preserve.

Register to issue grants, to assignees of surveys, the assignment being attested.

4. *And be it further enacted*, That the present register proceed without delay, to open new records and registers, for the recording grants, plats and certificates of survey, and the registering all warrants and titles issued in pursuance thereof, under the last act of assembly for disposing of waste and unappropriated lands in this commonwealth.

New record books to be opened.

5. *And be it further enacted*, That the register of the land office for his services, be allowed the sum of three hundred pounds *per annum*, and the executive are hereby empowered from time to time to regulate the number of clerks which may be necessary to be employed by the register for performing the duties of that office, the principal one of whom shall be allowed the sum of five hundred

Register, his pay.

The executive to employ a sufficient number of clerks; such clerks how compensated.





dollars *per annum*, and the residue of them such compensation as the executive may deem reasonable and adequate for their services; to be paid in like manner as the rest of the civil list are paid.

Part of act herein  
recited, further  
continued, and  
how construed.

6. *Be it enacted*, That the first section of the act passed at the last session of assembly, intituled, "*An act giving further time to the owners of certain surveys to return the plats and certificates thereof, into the land office, and a further time to the owners of entries on the western waters to survey the same,*" be, and the same is hereby continued for twelve months from and after the thirty-first day of December, one thousand seven hundred and ninety-five: *Be it enacted*, That so much of the above recited clause as relates to lands on the eastern waters, shall be so construed as only to authorize the register of the land office to receive plats and certificates of survey made on locations under the commonwealth's land warrants.

Processioners,  
how appointed,  
paid, &c.

7. *Be it enacted*, That where it has happened that any county court within this commonwealth, have failed to appoint processioners according to the above recited act, in consequence of the acts of assembly not having been received by them in due time, it shall be lawful for such county court, between the first day of April and the first day of September, which shall be in the year of our Lord, one thousand seven hundred and ninety-six, to appoint processioners according to the directions of the above recited act, to remain in office until the expiration of the time for which such processioners were directed to remain in office by the said recited law; and from and after that time to be appointed between the periods, and in manner therein directed. Each processioner so appointed, and all others appointed, and to be appointed, under this, or the said recited act, shall be allowed by the court of his county, fifty cents, for every day he shall be employed; and in case of the death, resignation, or removal from office of any such processioner, the court of the county where such vacancy shall happen are hereby authorized to appoint a successor.

Tract of land lying  
in two precincts,  
to be processioned,  
within the same county,  
where the beginning  
shall be.

8. *Be it enacted*, That wherever it shall happen that any tract of land within this commonwealth, shall lie in two precincts, and within the same county, such tract of land thus situated shall be processioned in that precinct where the beginning shall be: *Provided nevertheless*, That the operation of this and the above recited act, so far as they respect settling the titles and bounds, and directing the mode of processioning lands on the west side of the Blue Ridge, shall be suspended for and during the term of four years, from and after the passage of this act.

Procedure in loc-  
ating lands, for-  
feited for the non-  
payment of taxes.

9. And whereas by the fifth section of the act first recited, a consideration of one dollar *per acre* is required for all lands indiscriminately, which may have become forfeited to this commonwealth, for the nonpayment of the taxes due thereon, which hath been found to be highly injurious to the said commonwealth, by reason of the difference of its value in different parts of this commonwealth: For remedy whereof, *Be it enacted*, That whensoever any person shall in future be desirous of locating such lands, they shall in the first instance procure from the commissioners of the land tax, within whose precincts the same may lie, a certificate of the price at which such lands stand charged, which certificate being delivered to the auditor, shall entitle the party to an order on the treasurer for the receipt of so much money as such lands may stand charged at,





which being paid, and other requisites of the said act complied with, shall entitle the party to all such right as the commonwealth may have had therein by means of the nonpayment of such taxes.

10. All acts and parts of acts, coming within the purview of this act, shall, and are hereby repealed. Repealing clause.

11. This act shall commence and be in force from and after the first day of January next. Commencement.

CHAP. 10.—An ACT to amend an act, intituled, “An act concerning grand juries, petit juries, and veniremen.”

(Passed December 2, 1795.)

Whereas by an act, intituled, “*An act concerning grand juries, petit juries, and veniremen,*” it is amongst other things enacted, that “The sheriff of each county, and the serjeants of the cities of Williamsburg, Richmond, and the borough of Norfolk, and other corporations within this commonwealth, shall before every quarter session of the county or corporation courts respectively, summon twenty-four freeholders of his county or corporation, not being ordinary keepers, constables, surveyors of highways, or owners or occupiers of mills, out of which number shall be impanelled a grand jury of sixteen at least, who shall be sworn to enquire into the breach of penal laws, and make presentment of the offenders:”

1. And whereas no provision is made by the said act for the case where a smaller number (of those who have been summoned) than sixteen should attend: *Be it enacted*, That if a sufficient number of the said freeholders should not attend on the first day of the county or corporation court, the sheriff or serjeant, (as the case may be) shall summon from the bystanding freeholders, qualified according to law, a sufficient number, to form, together with such of the first mentioned freeholders as do attend, a grand jury. Bystanders may in certain cases be summoned on grand juries.

2. *And be it further enacted*, That when a presentment shall be made of any offence by the grand jury, upon the knowledge of two of their body, the names of the grand jurymen giving the information, shall be endorsed at the foot of the presentment; and when any presentment, information or indictment shall be made by the grand jury, of any offence upon the testimony of a witness, called upon by the court or the grand jury, to give testimony concerning the same, the name of such witness shall likewise be endorsed thereon; but in none of the cases above mentioned the person or persons so informing, be liable to costs. On presentment of an offence on the knowledge of two jurors, their names to be endorsed, so also the name of a witness.

3. *And be it further enacted*, That nothing in this or the above recited act shall be so construed as to disqualify any ordinary keeper, surveyor of a highway, or owner or occupier of a mill, from serving as grand jurors in any of the district courts or general court of this commonwealth. Certain persons not disqualified to serve as grand jurors in certain courts.

4. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 11.—An ACT to amend an act, intituled, “An act to reduce into one the several acts concerning slaves, free negroes and mulattoes, and for other purposes.”

(Passed December 25, 1795.)

Whereas great and alarming mischiefs have arisen in other states of this Union, and are likely to arise in this by voluntary associations of individuals, who under cover of effecting that jus- Preamble.



tice towards persons unwarrantably held in slavery, which the sovereignty and duty of society alone ought to afford; have in many instances been the means of depriving masters of their property in slaves, and in others occasioned them heavy expenses in tedious and unfounded law suits: To the end that a plain and easy mode may be pointed out by law for the recovery of freedom where it is unjustly and illegally denied, and that all such practices may in future be made useless and punished:

Procedure on the part of persons illegally detained in slavery, &c. and proceedings by courts or magistrates thereupon.

1. *Be it enacted*, That when any person shall conceive himself or herself illegally detained as a slave in the possession of another, it shall and may be lawful for such person to make complaint thereof either to a magistrate out of court, or to the court of the district, county or corporation where he or she shall reside, and not elsewhere. When the complaint shall be made to a magistrate of such illegal detention, it shall be the duty of the said magistrate forthwith to issue his warrant, summoning the owner or possessor of such complainant, to appear before him or some other magistrate of the county, to answer the complaint so made, and upon his appearance shall compel him to give bond with security, equal at least to the full value of such complainant, conditioned that he shall suffer him or her to appear at the next court to be held for the district, county or corporation wherein he or she resides, for the purpose of petitioning the said court to be allowed to sue therein *in forma pauperis*, for the recovery of his or her freedom; and if such master or holder shall fail or deny to give security as aforesaid, such magistrate shall order the complainant into the custody of the officer serving the warrant, to be kept by him safely at the expense of such master or holder, until the sitting of the first court that shall happen after such judgment by him given, and produce him or her before such court.

Petition for freedom to recite material facts; counsel to be appointed who shall report the case and his opinion before process shall issue.

2. When a petition shall be offered to the court of any district, county or corporation, by any person or persons so complaining, it shall state the material facts of the case, which being proved by affidavit or otherwise, to the satisfaction of such court, the petitioner shall obtain counsel, to be assigned by the said court, who, without fee or reward, shall prosecute the suit of such complainant: But before process shall issue upon the said petition, the counsel so appointed shall make an exact statement to the court, of the circumstances of the case, with his opinion thereupon, and unless from such circumstances and opinion, the court shall see manifest reason to deny their interference, they shall order their clerk to issue process against the owner, to appear and answer the complaint, and in the mean time, that such complainant shall be in custody of the sheriff, until the owner shall give bond with security, either in court, or with the clerk of the court, to have him or her forthcoming to answer the judgment of the court; in which case the complainant shall be returned into possession of the owner.

Penalty on persons aiding in the prosecution of such petition in certain cases.

3. *And be it further enacted*, That if any person or persons shall be found aiding, abetting, or maintaining any person in the prosecution of a suit upon a petition as aforesaid, and such person or persons shall fail to establish his or their claim to freedom, every person so found aiding, abetting or maintaining, shall forfeit and pay to the owner of such slave, or to the person who shall prosecute for the same, the sum of one hundred dollars, for every person so complaining; to be recovered by action of debt or information





in any court of record within this commonwealth, and moreover, be liable to an action on the case for damages arising therefrom, to the party grieved thereby.

4. And whereas it is doubted whether a widow who shall within one year from the death of her husband, declare, in the manner prescribed by law, that she will not take or accept the provision made for her by her husband's will, or any part thereof, and renounce all benefit which she might claim by the same will, be entitled to one third part of the slaves whereof her husband died possessed, and which by his will are directed to be emancipated and set free; for removing such doubts in future, and for a plain declaration of the law herein: *Be it enacted*, That in all such cases the widow shall be entitled to one third part of the slaves whereof her husband died possessed, notwithstanding they may be emancipated by his will: *Provided nevertheless*, That where part of the slaves only shall be emancipated, the widow's part shall be taken out of those which are not set free, if there be enough to make one third part of the whole number whereof the husband died possessed: And the widow in all such cases shall recover by preferring her bill in chancery against the executor or administrator, with the will annexed, one third part of such slaves, which one third so to be allotted to her, shall be ascertained by casting lot: *Provided nevertheless*, That in all such cases where the personal estate of the husband, after payment of debts and just expenses, shall be sufficient to compensate the widow for the value of her third part of the slaves whereof her husband died possessed, the executor or administrator, with the will annexed, shall pay to her such sum as shall be equivalent to her life estate in one third part of such slaves; which sum shall be ascertained by persons to be appointed for that purpose by the court, upon the application of the parties.

Widow's dower saved in slaves, although emancipated by husband's will.

Proviso.

Mode of recovery of such slaves.

Proviso.

5. *Be it also enacted*, That if any person shall make, forge, or counterfeit, or cause to be made, forged, or counterfeited, or wilfully act, or assist in the making, forging or counterfeiting any writing whatsoever, whereby any slave or servant of another, without the approbation or consent of the owner, master, or mistress of such slave or servant shall be declared to be or intended to be emancipated, or shall be suffered to go at large, or pass as a free person for any space of time, every person so offending and thereof legally convicted, shall forfeit and pay the sum of two hundred dollars, and suffer one year's imprisonment without bail or mainprize.

Penalty on persons convicted of forging, &c. or aiding, &c. in forging instruments of writing whereby slaves may pass as free.

6. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-six.

Commencement.

#### CHAP. 12.—An ACT authorizing the executive to procure arms for the defence of the commonwealth.

(Passed December 26, 1795.)

Whereas a well trained militia is the only natural and safe defence of a free state, and in order to carry this principle into effect, it is essentially expedient that the militia of this commonwealth should be armed in such manner as to answer the end of its institution:

1. *Be it therefore enacted by the general assembly*, That the governor, with the advice of the privy council, shall, and he is hereby authorized and required, annually to procure for the use and defence of this commonwealth, four thousand stand of small arms

Small arms annually to be procured by the executive.



and accoutrements, to be distributed amongst the militia, when called into actual service, in such manner as the executive may direct.

Each company of artillery to be furnished with one field piece.

2. *And be it further enacted*, That the executive shall be authorized to furnish each company of artillery with one field piece in good order, if there be a sufficient number of field pieces belonging to this commonwealth, and that the commanding officer of each company shall be responsible for the preservation and return of the field piece.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 13.—An ACT prescribing a mode for making a title to the purchasers of lands heretofore sold by sheriffs for arrears of taxes.

(Passed December 12, 1795.)

Title to the purchasers of lands heretofore sold for arrears of taxes, in case of the death of the officer who sold the same, how made.

1. *Be it enacted*, That in all sales of lands heretofore made according to law, on account of arrearages of public taxes, by any sheriff or other officer who may have departed this life before conveyance thereof to the purchaser or purchasers, and in which cases, conveyances ought yet to be made, it shall and may be lawful for the sheriff of the county, where the land lies, now in office, or his successor, to convey the same to the purchaser or purchasers, or his or their heirs or assigns, in as full and ample manner as the sheriff or other officer who made the sale, might or should have done, which conveyance shall recite the sale and consideration, and shall be effectual for passing to the purchaser or purchasers, or his or their heirs or assigns, all the estate and interest which the debtor or commonwealth had or might lawfully part with in the lands so sold as aforesaid.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 14.—An ACT to explain and amend the act, prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names.

[Passed December 28, 1795.]

Drafts for money by a resident of this, or any person in the United States, declared inland bills; subject in certain cases to damages.

1. *Be it enacted by the general assembly*, That all bills of exchange, or drafts for money in the nature of bills of exchange, drawn by any person or persons residing in this state, on any person or persons in the United States, shall be considered in all cases whatsoever as inland bills of exchange; and if such bill of exchange or draft shall be protested for nonacceptance or nonpayment, the drawer or indorser shall be subject to the payment of one *per centum* damages thereon, and the bill of exchange or draft shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid; any thing in any law to the contrary notwithstanding.

Suits maintainable in the name of an assignee of any bond, bill, or obligation whatever.

2. *And be it further enacted*, That a suit may be maintained in the name of an assignee or assignees on any bond, bill, or obligation, whatever, in like manner as such suit may be maintained by the assignee or assignees of a bond, bill, or obligation for the payment of money or tobacco.

Commencement.

3. This act shall be in force and have effect from and after the first day of March next.





CHAP. 15.—An ACT to amend the act, intituled, “An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts.”

(Passed December 25, 1795.)

Whereas in the construction of the act, intituled, “*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts.*” it hath been held that the judges of the general court cannot attend, or hold a district court, except in such districts only, as they may be respectively allotted to, which construction hath been attended with some inconvenience:

1. *Be it therefore enacted by the general assembly,* That from and after the passing of this act, it shall be lawful for the judges of the general court, or either of them, notwithstanding any allotment heretofore made, or hereafter to be made among them, to attend and hold a district court pursuant to the directions of the said recited act, in any other district than those to which they shall be respectively allotted: *Provided,* The judges allotted to such district, shall fail to attend the same; any thing in the said act to the contrary, or seeming to the contrary notwithstanding: *And provided also,* That when such allotments shall be made, no judge shall exchange the district to which he is allotted.

Judges of the general court may attend and hold a district court in any district.

Provisoers.

CHAP. 16.—An ACT to amend the act to reduce into one, all the acts and parts of acts relating to the appointment and duties of sheriffs.

(Passed December 24, 1795.)

1. *Be it enacted by the general assembly, and it is hereby enacted,* That when from any cause the whole number of the justices of the peace in commission for any county in this commonwealth, shall refuse to accept the office of high sheriff in any county; that then it shall be the duty of the county court forthwith to recommend to the executive, two honest and substantial freeholders residing in such county, willing to accept the said office; one of whom shall be commissioned by the governor, with the advice of council, as high sheriff for the respective county, to serve in the said capacity for the term of one year from the date of the commission.

When all the justices of a county shall refuse the sheriff duty thereof the court to recommend two freeholders.

2. *And be it also enacted,* That any person so as above commissioned may be continued in office for the same length of time, that sheriffs may now be continued therein; and that he shall be subject to the same penalties and remedies, and be entitled to the same privileges and commissions, as sheriffs are now subject and entitled to by law.

Person thus commissioned to have same emoluments and be subject to like penalties as other sheriffs.

3. And where no person will accept the appointment of sheriff in his county, the governor, with advice of council, may on recommendation from the county court, appoint any person willing to accept the same, residing within, and being a citizen of this commonwealth, who shall be commissioned, and be liable to the same fines and penalties as sheriffs are now subject and entitled to by law.

Where no person will accept sheriffalty, executive to appoint.

4. *And be it further enacted,* That all sheriffs now in office, as well as those hereafter commissioned, shall at the end of the two years which they shall have acted, receive of the treasurer of this commonwealth a commission of two and a half *per cent.* over and above the commission heretofore allowed by law, on the amount of the taxes paid into the treasury: *Provided,* They shall have annu-

Additional per centum allowed sheriffs.

Proviso.





ally, faithfully, and punctually paid into the treasury the full amount of the dues from the county for which they were sheriff.

Like enrolment extended to his representatives in case of death.

5. *And be it further enacted*, That if any sheriff who shall have punctually paid into the treasury the full amount of all the public dues from his county as aforesaid, shall die previous to the end of the second year, for which he was appointed, that his legal representatives shall be entitled to receive the aforesaid additional commissions.

Lands of deputy sheriffs and their securities bound to high sheriffs.

6. *And be it further enacted*, That the lands of deputy sheriffs, and their securities, shall be bound to the high sheriffs in like manner as the lands of the high sheriffs are bound to the commonwealth; and it shall be lawful for the general court, the district or county courts, to award a like execution against the said lands, on the motion of such high sheriff, his executors or administrators, to that which would have been issued on behalf of the commonwealth: *Provided*, That ten days previous notice shall be given to the said deputy and his securities, their heirs or devisees, as the case may be.

Lands of deputy sheriffs bound to their securities.

7. *And be it further enacted*, That whensoever the lands of any deputy sheriff would have been bound for any debt due to the high sheriff, they shall be bound in like manner to the security or securities, their executors or administrators, who may have paid the whole or a part of such debt, and it shall be lawful for the general court or district courts to award a like execution against the said lands on the motion of such securities, to that which would have been issued on behalf of the high sheriff: *Provided*, That ten days previous notice shall be given to the principal, his heir or devisee, as the case may be.

Proviso.

Remedy given by law to securities of high sheriffs extended to executors, &c. of securities.

8. And whereas in the twenty-eighth section of the act, intituled, "*An act to reduce into one, all acts and parts of acts relating to the appointment and duties of sheriffs*," which gives a remedy to the security or securities of high sheriffs, where they may have paid the whole or any part of a debt due to the commonwealth from his or their principal, it is not provided that the said remedy be had by the executors or administrators of such security: *Be it therefore enacted*, That the same remedy in the act aforesaid given to the securities of a high sheriff, shall be, and is hereby given to their executors and administrators.

Commencement.

9. This act shall commence and be in force from and after the first day of January, in the year of our Lord one thousand seven hundred and ninety-six.

CHAP. 17.—An ACT to amend an act, intituled, "An act reducing into one the several acts to oblige vessels coming from foreign parts to perform quarantine."

(Passed December 19, 1795.)

Preamble.

Whereas by the existing laws of this commonwealth, to "oblige vessels coming from foreign parts to perform quarantine," the executive are not authorized to designate more than one place for that purpose, which has been found by experience to be attended with much inconvenience and delay:

Governor to decide on places suitable for performance of quarantine, and cause houses to be erected thereon for purposes herein mentioned.

1. *Be it therefore enacted by the general assembly*, That in addition to the place pointed out by the governor, at the mouth of Elizabeth river, it shall be lawful for him, and he is hereby empowered, with the advice of council, to establish some other place in the river Patowmac, as near the head of the tide water, as shall be



considered convenient and safe, and at any other place or places along the sea board of this commonwealth, as shall be deemed necessary and expedient; and that he shall cause to be erected at the public expense at all such places so pointed out as proper for the performance of quarantine, sufficient buildings for the safe keeping of the goods or merchandize which it may be necessary to land from on board any vessel lying at anchor in obedience to the above recited act of the legislature, as well as for the accommodation of the persons superintending and performing quarantine: And he is hereby empowered to contract in behalf of the commonwealth for a sufficient quantity of land at every place designated as above, for the aforesaid purpose; and in case of any proprietor's refusing to sell upon reasonable terms the quantity required, the governor, with the advice of council, shall forthwith cause to be condemned and appropriated, by a writ of *ad quod damnum*, a quantity not exceeding two acres, the value whereof to be paid for out of the public treasury.

Empowered also to contract for land necessary therefor.

2. And whereas it is doubtful whether any superintendent of quarantine, hath a right to enforce the laws for the performance thereof, until a specific proclamation shall have issued from the governor, which, under a negative construction by causing delay, might hazard the introduction of a contagious distemper, *Be it further enacted*, That the superintendent of quarantine for the time being for any port within this commonwealth, upon intelligence to be relied on, of a pestilential disease prevailing in any place, between which and the port for which he is superintendent, there may be occasional intercourse, shall have power with the consent of the corporate or other local authority, to enforce without further delay towards vessels or persons coming from such infected place, the laws, for the performance of quarantine, until the executive shall have signified their assent or dissent to the proceeding; and upon all such occasions he shall immediately transmit to the governor the nature and extent of the intelligence which in his estimation justified the measure, in order that the sense of the executive may be had thereon as early as possible.

Superintendents may enforce the laws of quarantine in certain cases, and forthwith inform executive.

3. And whereas no legal measures exist for preventing the propagation of pestilential diseases, when any such have unhappily obtained a reception among us, *Be it therefore further enacted*, That if any place within this commonwealth, shall become infected with a malignant distemper, which shall be of a nature manifestly contagious, such place shall be co-extensively subject to the operation of the laws for the performance of quarantine with any foreign place.

Infected places within this commonwealth, subject as foreign places to laws of quarantine.

4. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 18.—An ACT establishing inspections of Indian meal within this commonwealth.

[Passed December 17, 1795.]

1. *Be it enacted by the general assembly*, That the inspectors of flour appointed in various places within this commonwealth in conformity to an act, intituled, "*An act reducing into one the several acts for regulating the inspections of flour and bread*," shall be, and they are hereby appointed inspectors of Indian meal; and in all appointments hereafter to be made under the act afore-

Inspectors of flour to be appointed inspectors of Indian meal.





said, the inspectors of flour shall also be appointed inspectors of Indian meal. All sifted Indian meal, and every barrel thereof brought to any of the places mentioned in the above recited act for exportation, shall be made by the miller or manufacturer thereof from corn well kiln dried, and be merchantable and of due fineness.

Miller to keep a brand mark, and mark on each cask of meal nett weight, &c.

2. Every miller or manufacturer of Indian meal, shall provide and keep a distinguishable brand mark, with which he shall brand every cask of meal, and mark thereon the tare and nett weight, before the same shall be removed from the place where the same was manufactured, under the penalty of thirty-three cents for every cask of meal which shall not be marked as aforesaid: And every cask or barrel of Indian meal which the inspector shall judge to be well packed, kiln dried, and merchantable, according to the directions of this act, shall be branded in the quarter with these words "fine meal" and with the name of the place at which he is inspector.

Materials and dimensions of, and quantity of meal to be put into, each barrel.

3. The casks or barrels in which Indian meal shall be packed, shall be made of the same materials and dimensions as by the said act is directed for barrels for flour and bread: And they shall in like manner be coopered, hooped and nailed. Every miller and manufacturer of Indian meal shall put into each barrel the full quantity of one hundred and ninety-six pounds of meal, and into every half barrel the full quantity of ninety-eight pounds of meal: And if any of them shall put a smaller quantity into any cask, than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Penalty for putting into any barrel a smaller quantity.

Rate of inspection.

4. For every barrel of Indian meal inspected agreeable to the directions of this act, the inspector shall have and receive as a compensation, two cents; but the owner or manufacturer shall have the same right of appeal from the judgment of the inspectors as is provided in the case of flour.

Exportation of un-inspected meal prohibited.

5. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any cask of Indian meal which shall have been condemned by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of Indian meal, not inspected as aforesaid, on pain of forfeiting and paying five dollars for every cask or barrel exported, or laden on board any ship or vessel for exportation, which may be recovered before a single magistrate, one half to the use of the informer, and the other half to the use of the commonwealth.

Penalty on persons exporting such meal.

Commencement.

6. This act shall commence and be in force from and after the first day of February next.

CHAP. 19.—An ACT to amend the several acts for regulating pilots, and ascertaining their fees.

(Passed December 22, 1795.)

Preamble.

Whereas by the act, "*To reduce into one the several acts for regulating pilots, and ascertaining their fees,*" every master of a merchant vessel coming from sea, is obliged to receive the first pilot who offers below the Horse shoe, which by experience has been found not to effect the object of supplying vessels, arriving on our coasts, with pilots:



1. *Be it therefore enacted*, That it shall be lawful for any pilot belonging to this commonwealth, who first meets a vessel at sea, to take charge of, and conduct her into Hampton road, York river, or Mobjack bay, and to receive the fees allowed by law for conducting vessels to the aforesaid places; from whence any pilot having a branch for the port she is destined to, may take charge of, and conduct her thereto.

Pilot first meeting a vessel to conduct her to certain places.

2. *And be it enacted*, That every pilot shall be allowed and paid one fourth in addition to the fees, allowed by the act, "*To reduce into one the several acts for regulating pilots, and ascertaining their fees:*" *Provided always*, That coasting vessels shall not be obliged to take a pilot.

Additional fees for pilotage.

Proviso.

3. *And be it further enacted*, That every pilot who meets a vessel, coming from any place infected with contagious diseases, and directed by proclamation of the governor to perform a quarantine, shall, before he boards her, enquire whether any person or persons on board are sick, and if any should be so, that he direct the said vessel to follow his boat, which said vessel he is to lie by, and conduct to the nearest place for vessels to perform quarantine, and there bring her to anchor; but if no person on board such vessel be sick, he may conduct her to the port she is bound to: *Provided*, There be a superintendent of quarantine in such port, and proceed immediately to give notice to the said superintendent of the arrival; and the said pilot for his extra trouble therein, shall be allowed and paid by the master or owner of the vessel, five dollars over and above the pilotage he is entitled to. And if any pilot shall fail to give notice to the superintendent, it shall be considered a breach of good behaviour, and shall moreover forfeit his branch for twelve months: *Provided*, That nothing herein expressed shall affect the rate of pilotage as established by law, from the capes to the different places up the Patowmac river, which shall remain as estimated in the law passed in the year one thousand seven hundred and ninety-two.

Rules to be observed by pilots, in case of meeting vessels coming from places infected with contagious diseases.

4. All and every act coming within the purview hereof, shall be, and the same is hereby repealed.

Repealing clause.

5. This act shall commence and be in force from and after the first day of February next.

Commencement.

#### CHAP. 20.—An ACT for the inspection of fish.

(Passed December 23, 1795.)

1. *Be it enacted by the general assembly*, That no fish shall be exported out of this commonwealth until the same shall be packed in barrels, under the regulations herein after expressed; and the justices of every county and corporation court within this commonwealth are hereby authorized and required, whenever application shall be made to any court for that purpose, and in the months of August and September annually to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons residing in the same county, to inspect the package of all fish packed for sale or exportation in their respective counties. And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect, and examine, when required, all fish packed for sale or exportation, and to the best of his

Courts to appoint inspectors of fish; their duty and allowance; gauge of casks, &c.





skill and judgment not to pass or stamp any barrel of fish that is not good, clean, sound, merchantable, and of the gauge by this act directed, and, faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend upon notice at such time and place as the owner of any such commodity shall appoint to inspect the same within his county, but shall not inspect or stamp any fish imported from another state of the Union, until the same shall be brought to some public landing; and shall provide a stamp or stamps with the first letter of his county, the letter V for Virginia, the first letter of his own christian name, and his whole surname at length to be stamped on each barrel or cask by him passed, for which he may demand and take for every barrel of fish by him stamped, six cents, to be paid down by the owner.

Penalty imposed  
on inspectors for  
neglect of duty,  
&c.

2. And if any officer so appointed and sworn, shall neglect his duty, or stamp any such commodity contrary to this act, he shall forfeit and pay one dollar for every barrel of fish which shall be found not duly qualified, or of less weight or contents than this act requires, and also one dollar for every neglect of his duty, recoverable by the informer with costs before a justice of the peace of the county where such offence shall be committed.

Fish to be of one  
kind; and inspec-  
tor not to pass any  
such, unless of  
good quality.

3. Every barrel of fish packed within this commonwealth for sale, in any town established in this state, or exportation, or imported here, shall be packed all of one kind, and in a barrel well seasoned, containing not less than thirty nor more than thirty-two gallons; and all barrels so packed shall be full, well nailed, and pegged, and the fish therein shall be well salted, sound and well seasoned; and no inspector shall pass or stamp any barrel of fish that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, found merchantable, and passed by the inspector or inspectors residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and a certificate thereof given to the owner.

Penalty on persons  
selling fish in casks  
of smaller gauge  
than directed by  
this act.

4. And if any person shall presume to sell or expose to sale, or barter any barrel of fish of less size or gauge than that above mentioned in any town established in this state, he or she shall forfeit and pay to the informer two dollars for every such barrel of fish sold or exposed to sale, or barter in this commonwealth, recoverable with costs by the informer before any justice of the county or corporation where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act give judgment for the whole penalty, and award execution thereupon; any law to the contrary thereof notwithstanding: *Provided nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond with sufficient security before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Proviso.





5. Every seller or exporter of fish packed in this commonwealth, and stamped or branded, shall make oath before a justice of the peace, at the time of the delivery of such fish sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury, and moreover shall forfeit and pay the sum of one hundred dollars, to be recovered by any person or persons that will sue for the same, to his or their own use.

Persons selling or exporting fish, to identify the same on oath.

Penalties on conviction of having taken a false oath.

6. And if any such fish be put to sale or shipped off without having been approved by an inspector, and the barrels in which they are contained have not the said inspector's stamp, mark, or brand upon them, or if any master of any ship or other vessel, officer or mariner, shall receive on board any such ship for exportation, the offender or offenders shall incur the penalty of two dollars for each barrel so shipped, to be recovered in any court of record in this commonwealth, by him or them who will sue for the same; and moreover all fish laded or received on board for exportation as aforesaid, shall be forfeited. And if any cooper, inspector, or other person, shall shift any fish either on board any ship or vessel, or on shore, after the same hath been so branded, stamped, or marked by the inspector, and ship and export the same, and a new brand, stamp, or mark the barrel whereinto such fish are shifted, all persons acting, ordering or assisting therein, and being thereof convicted, shall forfeit and pay a sum not exceeding five dollars. And if any person other than the proper officer shall presume to mark, stamp, or brand any barrel of fish with the stamping or branding instrument belonging to such officer, or other instrument made in imitation thereof, such person or persons on conviction thereof, shall forfeit and pay the sum of five dollars for each barrel so marked, stamped, or branded, to be recovered in the manner before mentioned.

Fines on mariners for receiving uninspected fish on board their vessels, &c.

7. Every cooper, and the master or owner of every servant or slave, who shall set up barrels for fish, shall make the same in the following manner, to wit: Each barrel of good, strong, well seasoned timber, clear of sap, and not less than five eighths of an inch thick, tight and well hooped with twelve hoops at the least.

Materials of the casks; number of hoops to be put thereon, &c.

8. The several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information with costs of suit.

Fines, &c. imposed by this act, how and for whose use recoverable.

9. This act shall commence and be in force from and after the first day of June next.

Commencement.

CHAP. 21.—An ACT for augmenting the capital stock of the bank of Alexandria.

(Passed December 5, 1795.)

Whereas it has appeared to be the general opinion of that part of the commonwealth, most immediately affected by the establish-

Preamble.



ment of a bank in the town of Alexandria, that an augmentation of the capital of the said bank, would tend greatly to the promotion of the good purposes intended by the legislature in its establishment; and this assembly, being always solicitous to accommodate itself to the wishes and interest of every part of their fellow citizens, when the same is fully expressed to them :

Subscription to be opened for a certain number of shares.

1. *Be it enacted*, That a subscription of three hundred and fifty thousand dollars, be opened in shares of two hundred dollars each, and that a subscription be taken under the direction of the president and directors of the bank of Alexandria, as an augmentation to the original capital of the said bank.

Time within which to subscribe, and procedure in case of excess of subscriptions.

2. *And be it further enacted*, That the subscriptions be kept open for the space of thirty days under the direction of the said president and directors, or until the said number of augmented shares shall be filled up. And if a greater number of shares than that above specified shall be subscribed, in such case a reduction shall be made, from the subscription of each subscriber, in equal proportion, so as to reduce them to the number above mentioned: *Provided nevertheless*, That each subscriber shall be entitled to one share at least.

Proviso.

Subscriptions how and when paid.

3. *And be it further enacted*, That the sum subscribed to such augmented capital, shall be paid to the said president and directors, in the same proportion, and in the same number of days, from the time of opening the subscription books at the said bank, as the sums subscribed under the act, intituled, "*An act for the establishment of a bank in the town of Alexandria*," are fixed upon to be paid, and on failure of payment, a like forfeiture shall be incurred, to be applied in the same manner, as is by the said act directed.

Privileges of stockholders in this bank.

4. *And be it further enacted*, That every stockholder in such augmented capital, shall have a right of voting, and transferring his stock, in the same manner as the stockholders under the above recited act; and shall enjoy all the rights and privileges that the stockholders under the said act are entitled to; except, that upon the first dividend to be made, subsequent to their subscription, such stockholders shall be entitled only to such proportion thereof, to be settled by the president and directors, as shall have accrued as profit, from the time of the payment of their several shares; and they shall be subject to the like charges and disqualifications, and in every respect, except as before excepted, shall be as fully and perfectly incorporated with, and made parties to the said bank at the town of Alexandria, established under the said act, and be in all respects liable in like manner, as if they had subscribed under the powers, limitations and provisos of the said act.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 22.—An ACT giving a further time to the owners of entries on the western waters to survey the same.

(Passed December 3, 1795.)

Owners of entries on western waters allowed further time to survey the same.

1. *Be it enacted by the general assembly*, That the further time of one year to be computed from the first day of November, one thousand seven hundred and ninety-six, shall be allowed to the owners of entries on the western waters, to survey the same, in such manner as is directed by law.





2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 23.—An ACT for the completion of the James river navigation.

(Passed December 26, 1795.)

*Be it enacted*, That it shall and may be lawful for the treasurer to advance a sum of money on each share held by the commonwealth in the James river company, a sum not exceeding thirty dollars, in two or more requisitions, as shall be made by the president and directors of the said company on the subscribers generally. And that the sums so advanced by the commonwealth, as well as the sum or sums advanced by individuals, under the said requisitions, or in any manner loaned to the said company, shall, together with an interest at the rate of six *per cent. per annum*, be reimbursed to the commonwealth and to such individuals out of the tolls arising from the canal, before any dividend shall be made of the said tolls: *Provided*, That when the owners of shares in the said company shall have subscribed any sum of money not exceeding thirty dollars upon such share, it shall and may be lawful for the treasurer of this commonwealth, and he is hereby authorized to subscribe a sum equal to the sum so by them subscribed, which sum so subscribed shall be paid by the said treasurer upon call made by the president and directors of said company for that purpose; and upon refusal or neglect by the owners of shares, to pay the sum or sums so by them subscribed, the president and directors shall have the same remedy, either by sale of the original shares, or by notice and motion before the courts against the said owners, as was allowed them on the shares originally subscribed by said owners, and such delinquent subscribers shall moreover be liable for interest from the time such requisition ought to have been complied with: *Provided also*, That one half the sum thus raised, be exclusively appropriated to the opening and clearing the navigation of the river through the Blue Ridge up to Crow's ferry.

CHAP. 24.—An ACT concerning the district court to be holden at the Sweet springs.

(Passed December 8, 1795.)

Whereas by the act of assembly, intituled, "*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of district courts,*" passed the twelfth day of December, one thousand seven hundred and ninety-two, it is among other things provided, "That the counties of Greenbrier, Botetourt, Montgomery, and Kanawha, shall compose a district, and a court shall be holden for the same at Lewisburg in Greenbrier, and Botetourt courthouse, alternately, until the proprietor of the Sweet springs shall erect a sufficient courthouse and prison for the purposes of the said act, after which time, the Sweet springs shall become the seat of the said district court:" And whereas it hath been represented to this present general assembly, by the proprietor of the Sweet springs, that he hath erected a sufficient courthouse and prison:

1. *Be it therefore enacted*, That Thomas Edgar, William Hayns, Nicholas Carper, David Kean, and William Wilson, gentlemen, shall be, and they, or any three of them, are hereby empowered and required, on or before the first day of May next, to view and

Treasurer to advance a sum of money on each share belonging to the commonwealth. To be reimbursed out of the tolls.

Proviso.

Further proviso.

Persons appointed to view and report certain buildings erected at the Sweet springs:



District court to be thereafter holden thereat.

examine the courthouse and prison built at the said Sweet springs, and report to the court to be next holden for the said district, the form and strength of the said buildings; and if the judge or judges of the said court shall be of opinion that the same are sufficient for the purposes intended by the said act, the same shall be entered of record, and thenceforth, the court for the said district shall be constantly held at the said place.

Repealing clause.

2. So much of the said recited act, as comes within the meaning of this act, is hereby repealed.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 25.—An ACT for completing the navigation of the Patowmac river.

(Passed December 26, 1795.)

Preamble.

Whereas it hath been represented to the present general assembly, by the president and directors of the Patowmac canal company, that the capital originally proposed for the said undertaking has proved insufficient to carry the same into complete effect, and that they have in pursuance and by virtue of the act incorporating the said company, added one hundred shares to their capital, at the rate of one hundred and thirty pounds sterling *per* share, of which shares a small proportion only hath been hitherto subscribed for by individuals; and it is deemed proper that a work which commenced on so enlarged and liberal a plan, which has proceeded so far, and which promises to redound so amply to the advantage of the community, should continue to experience that aid which hath been hitherto given to it by this commonwealth:

Treasurer to subscribe for shares on behalf of the commonwealth.

1. *Be it therefore enacted*, That the treasurer be, and he is hereby authorized and required, to subscribe on behalf of the commonwealth, for twenty shares in the said additional capital proposed to be raised as aforesaid by the president and directors of the Patowmac company, which said shares shall be held and enjoyed in like manner as the shares already held by the commonwealth in the said company; and the money becoming due for the same shall be paid agreeably to the directions and provisions of the said act incorporating the said Patowmac company: *Provided nevertheless*, That the money becoming due by virtue of the subscription above directed, shall not be paid on the part of this commonwealth, until the state of Maryland shall have subscribed for a proportionate, or greater number of shares in the said additional capital; nor until the whole of the remaining shares shall have been subscribed for by the present members of the said company or other individuals.

Proviso.

President, &c. authorized to restore any ground heretofore taken and have other condemned for the use of the company.

2. *And be it further enacted*, That the president and directors of the said Patowmac company, shall be, and they are hereby authorized, to relinquish any ground heretofore condemned for the use of the said company agreeably to law, and to restore the same to the former proprietor thereof, and they are hereby also farther authorized to proceed to the condemnation of such other ground, in lieu of such as they may relinquish, as to them shall seem advisable.

Authorized also to contract the size of the locks.

3. *And be it further enacted*, That it shall be lawful for the said president and directors, to contract the size of the locks to be constructed at the great falls of Patowmac to the size of twelve feet. Any thing in any law to the contrary notwithstanding.





4. So much of the act incorporating the said Patowmac company, or of any other law as comes within the purview of this act, shall be, and are hereby repealed. Repealing clause.

5. This act shall commence and be in force so soon as a similar act shall have been passed by the legislature of the state of Maryland. Commencement.

CHAP. 26.—An ACT to ascertain the allowance of the members of the general assembly.

(Passed November 23, 1795.)

Whereas it is just, that the members of the general assembly, delegated by the people to transact for them the legislative business, should, while attending that business, have their reasonable expenses defrayed, dedicating to the public service their time and labours, freely and without account; and it is also expedient that the public councils should not be deprived of the aid of good and able men, who might be deterred from entering into them by the insufficiency of their private fortunes to bear the extraordinary expenses they must necessarily incur: And whereas a doubt exists whether any law is in force at this time ascertaining their pay and allowance: Preamble.

1. *Be it enacted by the general assembly,* That the allowance to the several members of the present and all future assemblies, shall be two dollars by the day for attendance on the said assemblies, eight cents for every mile they must necessarily travel, going to and from the same; together with their ferriages, to be paid to them in money out of the public treasury. Daily allowance of members of assembly, and rate of mileage.

2. This act shall be in force from and after the passing thereof. Commencement.

CHAP. 27.—An ACT for altering the court days and quarterly sessions of the county of Hanover, and for other purposes.

[Passed December 12, 1795.]

1. *Be it enacted by the general assembly,* That from and after the twelfth day of May next, a court for the county of Hanover shall be held by the justices thereof, on the third Wednesday in every month, instead of the days heretofore appointed by law. And that a court of quarterly session shall be held for the said county, in the months of February, April, July and October, annually, instead of the months of March, May, August and November. Days whereon courts of Hanover county are to be holden.

2. *And be it further enacted,* That the corporation court of the town of Fredericksburg, shall hereafter be held on the fourth Saturday in each month, instead of the day now by law appointed. When the corporation court of Fredericksburg shall be holden.

CHAP. 28.—An ACT for altering the quarterly courts in the county of Mecklenburg.

(Passed December 1, 1795.)

1. *Be it enacted by the general assembly,* That from and after the first day of May next, quarterly courts shall be held for the county of Mecklenburg, in the months of February, May, July and October, in every year, instead of the months heretofore appointed by law. Quarterly courts of Mecklenburg when to be holden.

2. So much of any act as comes within the meaning of this act, is hereby repealed. Repealing clause.

3. This act shall commence and be in force from and after the passing thereof. Commencement.





## CHAP. 29.—An ACT to alter the place of holding courts in the county of Surry.

[Passed November 24, 1795.]

Courthouse of Surry, where to be erected, and courts thereat when to be holden.

Proviso.

1. *Be it enacted by the general assembly*, That so soon as a courthouse shall be erected by Robert McIntosh, at his own expense, and on his land, at the place called and known by the name of the Cross Roads, in the county of Surry, a court for the said county shall thenceforth be held at the said place; any law to the contrary thereof notwithstanding: *Provided always, and be it further enacted*, That nothing herein contained shall be construed to authorize the holding of courts at the said Cross Roads, unless a courthouse shall be erected with brick of the same dimensions as the present one, or of such other dimensions as shall be approved of by the court of the said county, and completed within two years from the passing of this act.

2. This act shall commence and be in force from and after the passing thereof.

## CHAP. 30.—An ACT to alter the court day of the district court holden at Winchester.

[Passed December 17, 1795.]

District court in Winchester when to be holden.

Commencement.

1. *Be it enacted by the general assembly*, That instead of the first day of September, the district court directed by law to be holden in the town of Winchester, shall hereafter be held on the fifth day of October annually, unless the same shall happen to be Sunday, in which case the said court shall begin on the succeeding day.

2. This act shall commence and be in force from and after the passing thereof.

## CHAP. 31.—An ACT to associate subscribers for the purpose of forming an artificial road from Alexandria to Little river, and for other purposes.

[Passed December 26, 1795.]

Preamble.

Whereas the great quantity of heavy articles of the growth and produce of the country, and of foreign goods which are daily transported between the town of Alexandria and the western counties of the state, requires an amendment on the highway, which can only be effected by artificial beds of stone and gravel, disposed in such manner as to prevent the wheels of carriages from cutting into the soil, the expenses whereof will be great, and it is reasonable that those who will enjoy the benefits of such highway should pay a compensation therefor, and there is reason to believe that such highway will be undertaken by an association of citizens, if proper encouragement be given by the legislature:

Persons appointed to perform certain duties required by this act.

1. *Be it therefore enacted by the general assembly*, That Adam Douglass and Abram Neil, (of Winchester,) George Harness, (of Moorfield,) Adam Heiskill, (of Woodstock,) John Dowdall, (of Newtown,) David Hunter, (of Martinsburg,) John Smith and Charles M. Thruston, (of the county of Frederick,) Levin Powell, (of Middleburg,) Thomas Lewis, (of Leesburg,) Richard B. Lee and Samuel Love, (of the county of Loudoun,) Francis Peyton, jun. and Levin Powell, jun. (of the town of Alexandria,) be, and hereby are appointed commissioners, to do and perform the several duties herein after mentioned, that is to say, they shall on or before the first day of March next, procure two books, and in each of them enter as follows: "*We whose names are hereto subscribed, do pro-*



*mise to pay to the president, managers and company of the Fairfax and Loudoun turnpike road company, the sum of two hundred dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers, in pursuance of an act of the general assembly of this commonwealth, intituled, 'An act to associate subscribers for making an artificial road from Alexandria to Little river.'* Witness our hands the day of \_\_\_\_\_, in the year of our Lord one thousand seven hundred and ninety-six;" and shall thereupon give notice in some newspaper, printed at Alexandria, Winchester, Martinsburg, Georgetown and Fredericktown, one whereof shall be in the German language, for one calendar month at least, of the times and places in the said towns of Alexandria and Winchester, when and where the said books shall be opened, to receive subscriptions of stock for the said company; at which times and places, some three of the said commissioners shall attend, and shall permit and suffer all persons, who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least six hours in each juridical day, for the space of three days, if three days shall be necessary; and on the first of the said days, any person of the age of twenty-one years, shall be at liberty to subscribe in his own name, or in the name or names of any other person or persons, by whom he shall be authorized, for one share, on the second day for one or two shares, on the third for one, two or three shares, and on any succeeding day while the said books shall remain open, for any number of shares in the said stock; and if at the expiration of the said three first days, the said book opened at Alexandria, shall not have six hundred shares therein subscribed, and the said book opened at Winchester, shall not have six hundred and fifty shares therein subscribed, the said commissioners respectively may adjourn from time to time, until the said number of shares shall be subscribed, of which adjournments, public notice shall be given in at least one public paper, in each town last mentioned; and when the said subscriptions in the said books shall amount to the respective numbers aforesaid, the said books shall be respectively closed; and if on that day and before the said subscriptions shall be declared to be full, application shall be made to subscribe more shares than will fill the said books or either of them, to the numbers aforesaid, respectively, then the said commissioners aforesaid, respectively, shall apportion the whole number of shares unsubscribed at each respective place, on the morning of that day, among all those who shall have subscribed, or offered to subscribe as aforesaid on that day, by deducting from the subscribers of more shares than one, such proportion of the shares by them respectively subscribed, as will with the least fraction and leaving every person one or more shares, come nearest to the exact number of shares aforesaid: *Provided* Proviso. *always,* That every person offering to subscribe in the said books in his own name, or any other name, shall previously pay to the attending commissioners, twenty dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the company, as soon as the same shall be organized, and the officers chosen as herein after mentioned.





A certain number of shares being subscribed, commissioners to return a certificate to the clerk of the general court; subscribers thereupon incorporated.

2. *And be it further enacted*, That when one hundred persons or more, shall have subscribed six hundred and twenty-five shares, or more shares of the said stock, the said commissioners respectively may, or when the whole number of shares aforesaid, shall be subscribed, shall certify under their hands and seals, the names of the subscribers, and the number of shares subscribed by or apportioned to each subscriber, to the clerk of the general court, and thereupon they shall become one body politic and corporate in deed and in law, by the name, style and title of the president, managers and company of the Fairfax and Loudoun turnpike road; and by the said name the said subscribers shall have perpetual succession, and all the privileges incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns in fee simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

Commissioners to give notice in certain newspapers of the number of shares required by this act being subscribed, and call a meeting of the subscribers to appoint officers, form by-laws, &c.

3. *And be it further enacted*, That a majority of the aforesaid commissioners, as soon as conveniently may be, after record of the said subscription in the general court, give notice in some newspaper printed in the towns of Alexandria, Winchester, Georgetown, Fredericktown, and Martinsburg, of a time and place to be by them appointed, not less than twenty days from the time of issuing the first notice; at which time and place the said subscribers, shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers by ballots to be delivered in person or by proxy duly authorized, one president, six managers, one treasurer, and such other officers as they shall think necessary, to conduct the business of the said company for one year, and until other such officer shall be chosen; and shall or may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this commonwealth or of the United States, as shall be necessary for the well ordering the affairs of the said company: *Provided always*, That no person shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled unto; and that each person shall be entitled to one vote for every share by him held under the said number.

Proviso.

Time of the annual meeting of the company, &c.

4. *And be it further enacted*, That the said company shall meet on the second Monday of January in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing other such officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings, they shall have full power and authority to make, alter or repeal by majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations, as aforesaid, and to do and perform any other act by this law allowed.



5. *And be it further enacted*, That the president and managers first to be chosen as aforesaid, shall procure printed certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, and sealed with the common seal of the company, to each person for every share by him subscribed and held, he paying to the treasurer in part of the sum due thereupon, the sum of forty dollars for each share, which certificate shall be transferable at his pleasure in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the company, and for every certificate by him held shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Each subscriber for each share, shall receive a certificate from the president, &c. which shall be transferable.

6. *And be it further enacted*, That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meetings five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book, and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, engineers, superintendants and other artists, and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries or other wages, to ascertain the times, manner and proportions when and in which the stockholders shall pay the monies due on their respective shares in order to carry on the work, to draw orders on the treasurer, for all monies necessary to pay the salaries or other wages of the persons by them employed, and for the labor and materials done and provided, which order shall be signed by the president, or in his absence by a majority of the quorum, and countersigned by their clerk, and generally to do and transact all such other acts, matters and things as by the by-laws, rules, orders and regulations of the company shall be permitted.

President and managers to meet at certain times, and to act in all cases for the interest of, and as the affairs of the company require by appointing superintendants, &c.

7. *And be it further enacted*, That if any stockholder after thirty days notice in a public paper, printed in each of the towns of Alexandria and Winchester as aforesaid, of the time and place appointed, for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of ninety days, after the time so appointed, the same shall be forfeited to the said company, and may and shall be sold by them, to any other person or persons willing to purchase, for such price as can be obtained therefor.

Stockholders failing to pay the sum demanded on each share for ninety days after notice, to forfeit same to the company.

8. *And be it further enacted*, That it shall and may be lawful, to and for the said president and managers, their superintendants, surveyors, engineers, artists, and chain bearers, to enter into and upon all and every the lands, tenements, and inclosures, in, through, and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone, and gravel and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark

President and managers authorized to enter, and examine any ground through which the road is intended to pass.





and fix, such route or track for the same as in the best of their judgment and skill, will combine shortness of distance with the most convenient and practicable ground by Little river, where the present turnpike road crosses it in Loudoun county, supposed to be the land of the late honorable James Mercer, deceased, to the town of Alexandria.

President and managers, &c. authorized also to use any materials necessary to the construction of the road, found on any land: such materials to be paid for.

9. *And be it further enacted*, That it shall and may be lawful to and for the president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages and beasts of draft or burthen, to enter upon the lands, in, over, contiguous and near to which the route and track of the said intended road shall pass, first giving notice of their intention to the owners thereof or their representatives, and doing as little damage thereto as possible, and repairing any breaches that they make in the inclosures thereof, and making amends for any damages that may be done to any improvements thereon, by appraisement to be made in manner hereafter to be directed, and upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made upon oath or affirmation by three indifferent freeholders, or any two of them agreeing, to be mutually chosen, or if the owners upon due notice shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county not interested on either side, and having tendered the appraised value, to dig, take and carry away any logs, stone, gravel, sand or earth, there being most conveniently situated, for making or repairing the said road.

President and managers also authorized to erect bridges where necessary. Width of and manner in which the road is to be constructed.

10. *And be it further enacted*, That the said president, managers, and company shall have power to erect permanent bridges over all the waters, crossing the said route or track, wherever the same shall be found necessary, and shall cause a road to be laid out fifty feet wide, twenty-one feet whereof in breadth at least, shall be made an artificial road, which shall be bedded with wood, stone, gravel, or any other hard substance well compacted together, a sufficient depth to secure a solid foundation to the same, and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as materials will admit, an even surface, rising towards the middle by a gradual arch and so nearly level in its progress, as that it shall in no place rise or fall, more than will form an angle of four degrees with an horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order and repair by the place at Little river aforesaid to the town of Alexandria.

When the road is perfected for ten miles, notice thereof to be given the governor, who shall cause the same to be examined, &c.

11. *And be it further enacted*, That so soon as the president, managers and company shall have perfected the said road, for any distance from the town of Alexandria, not less than ten miles towards the said town, and so from time to time, any other like distance progressively, they shall give notice thereof to the governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view and examine the same, and report to him in writing, whether the said road is so far executed in a masterly workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall by license under his hand and the lesser seal of the commonwealth permit and suffer the said pre-



sident, managers and company to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties herein after granted to the said company, from all persons travelling in the same with horses, cattle, carts and carriages.

12. *And be it further enacted*, That the said company having perfected the said road, or such part thereof, from time to time as aforesaid, and the same being examined, approved and licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll gatherers, as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates herein after mentioned, and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, waggon, wain, sleigh, sled or other carriage of burthen or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say; for every space of ten miles in length of the said road, the following sums of money, and so in proportion, for any greater or lesser distance, or for any greater or lesser number of sheep, hogs or cattle, viz: For every score of sheep, six cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse and his rider or led horse, three cents; for every sulkey, chair or chaise with one horse and two wheels, six cents; for every chariot, coach, stage waggon, phaeton or chaise with two horses and four wheels, twelve cents; for either of the carriages last mentioned with four horses, eighteen cents; for every other carriage of pleasure under whatever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every cart or waggon whose wheels do not exceed the breadth of four inches, six cents for each horse drawing the same; for every cart or waggon, whose wheels shall exceed in breadth four inches and not exceed seven inches, three cents for every horse drawing the same; for every cart or waggon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, two cents for every horse drawing the same; for every cart or waggon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, or being ten inches, shall roll more than fifteen inches, one and a half cents for every horse drawing the same; for every cart or waggon, the breadth of whose wheels shall be more than twelve inches, one cent for every horse drawing the same.

13. *And be it further enacted*, That no waggon or other carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road between the first day of December, and the first day of May following, in any year or years, with a greater weight thereon than two and a half tons, or with more than three tons, during the rest of the year; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the said first days of December, and May, with more than three and a half tons, or with more than four tons, during the rest of the year; that no such carriage, the breadth of whose wheels shall not be ten inches or more, or, being less, shall not roll at least twelve inches, shall be drawn along

The road being completed for a certain distance, and so from time to time progressively, and approved on examination; toll gatherers to be appointed for collecting toll agreeably to rates herein.

Waggons whose wheels do not roll a certain breadth, not to bear more than a certain burthen along the said road at certain seasons of the year, &c.





the said road between the first days of December and May, with more than five tons, or with more than five and a half tons during the rest of the year; that no cart or carriage with two wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of December and May, or with more than one and a half tons during the rest of the year; that no such carriage whose wheels shall not be of the breadth of seven inches, shall be drawn along the said road with more than two and a half tons between the said first days of December and May, or with more than three tons during the rest of the year; that no such carriage whose wheels shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of December and May, with more than three and a half tons, or with more than four tons during the rest of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of December and May, nor more than eight tons during the rest of the year; that no cart, waggon, or carriage of burthen whatsoever, whose wheels shall not be of the breadth of nine inches at least, shall be drawn or pass in or over the said road, or any part thereof, with more than six horses, nor shall more than eight horses be attached to any carriage whatsoever used on the said road; and if any waggon or other carriage shall be drawn along the said road by a greater number of horses, or with a greater weight than is hereby permitted, the owner or driver of the said waggon or other carriage, shall forfeit and pay to the said company the sum of ten dollars, to be recovered by petition and summons in any court of record within this commonwealth: *Provided always*, That it shall and may be lawful for the said company, by their by-laws to alter any or all the regulations herein contained respecting the burthens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience, such alterations shall be found conducive to the public good.

Two oxen to pay same toll as one horse.

14. *And be it further enacted*, That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by oxen, and partly by horses, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

Mode of proceeding in case the road is defective, and penalty on keeper of turnpike having the superintendence thereof.

15. *And be it further enacted*, That if the said company shall neglect to keep the said road in good and perfect order and repair for the space of five days, and information thereof shall be given to any justice of the peace of the neighbourhood, such justice shall issue a precept to be directed to any constable, commanding him to summon three judicious freeholders to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall have been complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall at such time and place by the oaths or affirmations of the said freeholders, enquire whether the said road or any part thereof is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and of a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order, and repair, according to the true intent and meaning of this act, he shall



certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates for passing the interval of road between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair as aforesaid; and if the same shall not be so put into good and perfect order and repair before the next court of the county wherein the same shall be, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, who shall thereupon cause process to issue, returnable at any time during the said court, or on the first day of the ensuing court, as the said justices may think proper, to bring in the body or bodies of the person or persons entrusted by the said company with the care and superintendence of such part of the said road as shall be so found defective, which process being returned executed, the said person or persons summoned thereby, shall immediately thereafter plead to issue to the inquisition aforesaid, and a jury shall be immediately impanelled to try the same, who if they should find the facts contained in the said inquisition to be true, shall amerce the said person or persons so having the superintendence of such defective part of the road as aforesaid, according to the nature and degree of the neglect: Which amercement together with the costs of the prosecution so imposed upon the said person or persons, shall be recovered in the same manner as amercements and fines are usually recovered in the said courts, and shall be applied to the reduction of the county levy. And in case the said person or persons to be amerced as aforesaid, should be insolvent for the whole or any part of the said amercement, the said company shall be responsible for the same to be recovered in the name of the commonwealth, by action of debt or information in any court of record within this commonwealth: *Provided however*, <sup>Tróviso.</sup> That if any person or persons should be impeded, obstructed or injured in consequence of the said road not being in good and sufficient order and repair according to the true intent and meaning of this act, he, she, or they shall and may have and maintain an action on the case against the said company to recover damages therefor.

16. *And be it further enacted*, That the president and managers of the said company shall keep fair and just accounts of all monies to be received by them from the said commissioners, and from the subscribers to the said undertaking, on account of their several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits or the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work; and shall once at least in every year submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained. And if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers and company at a stated or special meeting to

President and managers to keep accounts of all monies received and expended by virtue of this act, and submit the same annually to a general meeting of the subscribers.

Authorized to increase the shares if found necessary.





be convened according to the provisions of this act or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Shall also keep accounts of money received by their toll-gatherers, &c. and make semi-annual dividends thereof as herein directed.

17. *And be it further enacted*, That the said president, managers and company shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road from beginning to end; and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock, and shall on every the second Monday in January and July in every year, publish the half yearly dividend to be made of the said clear profits, among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

General account of receipts and expenditures to be by the president, &c. laid before the legislature within a certain time after the road is completed, and at stated times thereafter for the purpose herein mentioned.

18. *And be it further enacted*, That the said president and managers shall at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the general assembly of this commonwealth an abstract of their accounts, shewing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof, may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six *per centum per annum*, on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers and company to increase the tolls herein above mentioned, so much upon each and every allowance thereof, as will raise the dividend up to six *per centum per annum*; and at the end of every seven years after the said road shall be completed, they shall render to the general assembly a like abstract of their accounts for the three preceding years; and if at the end of any such septennial period it shall appear from such abstract, that the clear profits and income of the said company will bear a dividend of more than fifteen *per centum per annum*, then the said toll shall be so reduced, as will reduce the said dividend down to fifteen *per centum per annum*.

Posts to be affixed—Index hand, &c.

19. *And be it further enacted*, That the said company shall cause posts to be erected at the intersection of every road falling into, and leading out of the said turnpike road, with boards, and an index hand pointing to the direction of such road, on both sides whereof, shall be inscribed in legible characters, the name of the town or place to which such road leads and the distance thereof, in computed miles.

Mile stones to be placed along the road.

20. *And be it further enacted*, That the said company shall cause mile stones to be placed on the side of the said road, beginning at the distance of one mile from the west side of the town of



Alexandria, and extending thence to the said place at Little river aforesaid, whereon shall be marked in plain legible characters, the respective number of miles which each stone is distant from the west bounds of the town of Alexandria, and at every gate or turn-pike, by them to be fixed on the said road, shall cause the distance from Alexandria, and the distances from the nearest gates or turn-pikes in each direction, to be marked in legible characters, designating the number of miles and fractions of a mile, on the said gate, or some other conspicuous place, and also, to cause to be affixed at such places a printed list of the rates of toll, which from time to time may lawfully be demanded, for the information of travellers and others using the said road.

21. *And be it further enacted*, That all waggoners and drivers of carriages of all kinds, whether of burthen or pleasure, using the said road shall, except when passing by a carriage of slower draft, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass, and if any driver shall offend against this provision, he shall forfeit and pay two dollars to any person who shall be obstructed in his passage, and will sue for the same; to be recovered with costs before any justice of the peace, in the same manner as debts under five dollars are recoverable.

Carriages to keep the right hand in the passing direction.

Penalty on failure in certain cases.

22. *And be it further enacted*, That if the said company shall not proceed to carry on the said work within two years after the passing of this act, or shall not within seven years afterwards complete the said road according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this commonwealth to resume all and singular the rights, liberties, privileges and franchises granted to the said company.

Rights hereby granted may be resumed in certain cases.

23. And whereas it is represented that a toll road from the great falls of Patowmac river to the town of Alexandria, will be an object of great convenience and advantage to the farmers and planters residing upon the said river in the upper parts thereof, *Be it enacted*, That Richard Conway, Henry Lee, Thomas Ludwell Lee, Roger West, James Wren, Jonah Thompson, William Hodgson, John Potts, and Robert Young, gentlemen, be, and they are hereby appointed commissioners, for the purpose of opening books of subscription at the town of Alexandria, for a toll road to be made from the great falls of Patowmac river to the said town, under the like regulations and conditions as are by this act pointed out for taking subscriptions to the aforementioned road from Alexandria to Little river: *Provided*, That the number of shares shall not exceed four hundred, at the rate of two hundred dollars to each share; when fifty persons or more shall have subscribed two hundred or more shares, the same shall become a body corporate under the name of the Matildaville company, having first complied with the several requisites in the second section of this act contained; and shall in every respect be subject to the same rules, regulations and orders, and have the same privileges, rights, remedies, provisoes and conditions as the said company for opening the road from Alexandria to Little river, are subject to, claim and enjoy by virtue of this act: *Provided*, That so soon as the company for opening the said road from Alexandria to the great falls, shall have perfected the same for

Commissioners appointed for receiving subscriptions to form a toll road from the great falls of Patowmac to Alexandria.

Limitation of the number and amount of shares, a certain number whereof being taken, company to be incorporated.

Such road being completed and ex-





amined as herein  
directed, tolls de-  
mandable.

Rate of tolls on  
carriages, &c.

any distance from the town aforesaid not less than ten miles, to be approved of in like manner as is by the eleventh section of this act directed, they shall be entitled to the privileges contained in the said section of this act: *Provided likewise*, That the following tolls or rates shall be paid to the said company, viz: For every space of ten miles in length of the said road and so proportionably, the following sums of money, and so in proportion for any greater or lesser distance or for any greater or lesser number of sheep, hogs or cattle, viz. for every score of sheep, one eighth of a dollar; for every score of hogs, one eighth of a dollar; for every score of cattle, one quarter of a dollar; for every horse and his rider or led horse, one sixteenth of a dollar; for every sulkey, chair or chaise, with one horse and two wheels, one eighth of a dollar; for every chariot, coach, stage waggon, phaeton or chaise with two horses and four wheels, one quarter of a dollar; for every carriage of the last description with four horses, three eighths of a dollar; for every other carriage of pleasure under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every cart or waggon whose wheels do not exceed the breadth of four inches, one eighth of a dollar for each horse drawing the same; for every cart or waggon whose wheels shall exceed in breadth four inches and not exceed seven inches, one sixteenth of a dollar for every horse drawing the same; for every cart or waggon, the breadth of whose wheels shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches shall roll more than ten inches, five cents for every horse drawing the same; for every cart or waggon the breadth of whose wheels shall be more than ten inches and not exceed twelve inches, or being ten inches shall roll more than fifteen inches, three cents for every horse drawing the same; for every cart or waggon, the breadth of whose wheels shall be more than twelve inches, two cents for every horse drawing the same.

CHAP. 32.—AN ACT to ascertain the line dividing the counties of Greenbrier and Kanawha.

(Passed December 5, 1795.)

Preamble.

Whereas it is represented to this general assembly, that the line dividing the counties of Greenbrier and Kanawha, is vague and uncertain, from many inconveniences have arisen, and may in future arise: For remedy whereof,

Beginning and  
course of the di-  
viding line be-  
tween counties  
herein mentioned.

1. *Be it enacted by the general assembly*, That the line dividing the said counties of Greenbrier and Kanawha, shall begin at the mouth of Gauley river, and thence up the said river according to the several meanders thereof, to where the line dividing the counties of Greenbrier and Randolph, crosses said river: *Provided*, That all surveys heretofore made by the surveyor of either of the aforesaid counties of Greenbrier and Kanawha, of lands which by the line aforesaid, may lie in the county whereof he is not surveyor, shall be as good and valid, as if the same were made by the surveyor of the county wherein the said lands lie; and all entries for lands made in like manner shall be good and valid, and give right to the owner according to the priority of date: *Provided also*, That nothing in this act shall be so construed as to oblige the court of Greenbrier to levy a tax on their tithables to keep in repair that part of the state road that lies between the top of Gauley mountain

Proviso.

Further proviso.



and Gauley river, during the continuance of an act, intituled, "*An act to continue an act, intituled, 'An act to empower the justices of Greenbrier and Kanawha, to levy a tax on the tithables within their respective counties sufficient to repair the state road leading down from Lewisburg, to the falls of the Great Kanawha.'*"

2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 33.—An ACT directing an additional warehouse at Amherst inspection.

(Passed December 7, 1795.)

Whereas it hath been represented that it would be of public utility Preamble. to erect an additional warehouse on the lands of John Lynch, in the county of Amherst, in some convenient place contiguous to the present inspection of Amherst, and adjacent to James river:

1. *Be it therefore enacted*, That Ambrose Rucker, John Wyatt, Benjamin Rucker, David Woodroof, Thomas Moore, and Reuben Norwell, gentlemen, or any three of them, are appointed commissioners, to examine and ascertain the most eligible ground on the lands of the said John Lynch, whereon to erect an additional warehouse, and make report thereof to the county court of Amherst, who shall thereupon order and direct the dimensions of the house to be built by the said Lynch, at such place accordingly; and moreover are hereby authorized to take such measures therein for the purpose of effecting the said building as are prescribed by the fifth section of the act, intituled, "*An act for reducing into one the several acts of assembly for the inspection of tobacco.*" So soon as the said building shall be completed and received by the court of the said county, the same shall be held, deemed and taken, to all intents and purposes whatsoever, as united with and under the same inspection of Amherst warehouse.

2. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 34.—An ACT for repairing the waggon road from Savage river to Morgantown.

(Passed December 23, 1795.)

1. *Be it enacted by the general assembly*, That William McCleery, Nicholas Casey, Michael Kerns, and Edward McCarty, gentlemen, shall be, and they are hereby constituted and appointed commissioners, who, or a majority of them, are authorized and empowered to contract and agree with some fit person or persons for repairing the waggon road from the mouth of Savage river to Morgantown, on the Monongalia river, upon the best terms that can be obtained. The said commissioners on letting the repairing of the said road, shall take bond or bonds with sufficient security for the faithful performance of the said work, within such time and in such manner, as the same shall be undertaken to be done and performed.

2. *And be it further enacted*, That a sum of money not exceeding five hundred dollars be granted for the purposes of repairing the said road, on the undertaker's completing the same, to be certified under the hands and seals of the said commissioners or a majority of them, stating the undertaker's name, the sum for which the said road was let, and that the same is performed according to contract, to the auditor of public accounts, who shall thereupon





issue a warrant or warrants in his or their favor on the treasurer of this commonwealth for the money, which shall be due, not exceeding the said five hundred dollars, to be paid out of any money in the treasury.

Commencement. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. 35.—An ACT to amend and reduce into one act the several acts for opening and extending the navigation of Appamatox river.

(Passed December 21, 1795.)

Preamble.

Whereas it is judged expedient to amend the several acts passed  
*"For opening and extending the navigation of Appamatox river:"*

Trustees appointed for the purpose of carrying this act into effect.

1. *Be it therefore enacted*, That Everard Meade, Joseph Eggleston, William Murray, Francis Anderson, John Wiley, Peter Johnson, Charles Allen, Ryland Randolph, Edmund Harrison, Alexander M'Rae, Drury Jones, John Johns, James Morton, Charles Scott, Richard N. Venable, John Epperson, Nelson Patterson, John Archer, John Royal, John Finney, Edward Monford, Peter F. Archer, Francis Eppes, Henry Skipwith, Buller Claiborne, Joshua Chaffin, John Nash, jun., Samuel Carter, James Wade, John L. Crute, Roger Atkinson, jun., James Watt, George Markham, John Purnall and Samuel Allen, be, and they are hereby constituted and appointed trustees for clearing, improving and extending the navigation of the said river from Banister's mills as far up the same as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus or canoes capable of carrying eight hogsheads of tobacco.

Incorporated by the name and style of the Upper Appamatox company.

2. The said trustees and their successors shall be, and they are hereby declared to be incorporated by the name and title of the trustees of the Upper Appamatox company, and may sue and be sued as such. The said trustees, or a majority of them, may from time to time appoint any five of their own body to superintend the clearing of the said river, a majority of which five shall have full power to do all things necessary for the purpose of carrying this act into effect; and the said five trustees so appointed as aforesaid, shall at the expiration of the term during which they may be so authorized to act, well and truly report to the said board of trustees all things which may by them, or a majority of them, be ordered or done by virtue of this act and of their said appointment. That the said trustees shall remain in office for the term of two years only from the time the subscription hereafter mentioned shall be completed: And that an election of trustees shall be held once in every two years by the subscribers holding a majority of shares, each subscriber giving one vote for every share he possesses, and voting either in person or by proxy: *Provided always*, That until an election shall be made from time to time by those holding the said shares, or a majority thereof, the former trustees shall continue to act, although the two years for which they were elected may have expired: And in case of the death, removal to the distance of twenty miles from the said river, resignation or incapacity of any of the said trustees, it shall be lawful for the remaining trustees, or a majority of the whole number of them, to appoint other trustees to fill such vacancies, which trustees so appointed shall continue to act until the next general election.

Proviso.



3. *And be it enacted*, That it shall and may be lawful for the said trustees to receive subscriptions for so many shares, at the rate of one hundred dollars for each share, as they shall deem adequate to the purposes of this act.

Authorized to receive subscriptions for shares.

4. If any person or persons, his, her, or their executors or administrators, holding any share or shares, so as aforesaid subscribed, shall fail to pay the amount or so much thereof as shall be required by the said trustees or their successors, from time to time at such time as they shall direct, it shall and may be lawful for such trustees and their successors to recover the same with costs, together with the actual cost of giving notice; and also interest on the sum required, from the date the same became due and payable, by motion in the court of the district or county, where the person resided at the time of his subscribing, provided he, she or they have ten days previous notice of such motion. And on executions issued on judgments so obtained, the sheriff shall take no security for the payment of the money at a further day, and for the better direction of the sheriff, the clerk shall endorse on the said executions that no security shall be taken: Or instead of such proceedings against delinquent subscribers, their executors and administrators, the said trustees or their successors, at their option, may proceed to sell by way of public auction such delinquent share or shares, provided that one month's notice of the time and place of such sale be given in the Petersburg gazette, and after retaining the sum due and charges of sale out of the money arising therefrom, they shall refund and pay the overplus, if any, to the former owner: *Provided always*, That no share or shares shall be sold, if the holder or holders thereof, their executors or administrators, shall, on or before the time appointed for such sale, tender to the person authorized to receive the same the amount of such share or shares, or the requisition made thereon.

Subscribers failing to pay the requisitions made from time to time, liable to recovery by motion.

Other mode of recovery against delinquent subscribers.

Proviso.

5. The said trustees or their successors shall have power to nominate and appoint from time to time a proper person to be receiver of all money subscribed under this act, who shall give bond with sufficient security in the penalty of fifty thousand dollars, payable to the said trustees and their successors, for the time being, with condition that he, his heirs, executors and administrators, at all times when required, will truly and faithfully account for all sums of money that shall or may come to his hands for the purposes of this act, and pay the same to such person or persons as the said trustees or their successors shall order and direct; and if any such receiver, his executors or administrators shall fail to pay any money by him received by virtue of this act, it shall and may be lawful for the said trustees and their successors, to recover the same by motion in the court of the district or county where he resided at the time of his being appointed receiver: *Provided*, The said receiver, his executors or administrators have ten days previous notice of such motion. The said trustees shall also have power to appoint a clerk, who shall keep a fair record of their proceedings from time to time, which said proceedings at the end of every meeting shall be signed by the members present, and attested by the clerk, and be admitted as evidence in any controversy between the trustees and those interested in the shares, or between the latter themselves.

Trustees authorized to appoint a treasurer, who shall give bond, &c.

Proviso.

6. And whereas it may be found necessary in some parts of the said river, to straighten the same by cutting away the banks, or by

Authorized to agree with persons through whose





land a canal may be cut, for the price thereof: mode of proceeding in case of disagreement, &c.

a canal: *Be it therefore enacted*, That it shall and may be lawful for the said trustees or their successors, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act, intituled, "*An act for opening and extending the navigation of Patowmac river*," and such valuation shall be paid by the said trustees to the owner of the said land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees and their successors in fee, for the purposes of this act.

May contract for the cutting such canals.

7. And the said trustees, and their successors, shall have power and authority, to agree with any person or persons, to cut such canals, and erect such locks, and to perform such other works as they may think necessary, for opening, improving and extending the navigation of the said river, and out of the money raised by virtue of this act, and the tolls hereafter given, to pay for the same, and repair and keep in order the said canals, locks, and other works, necessary thereto, and to defray all incidental charges, and to appoint such toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle and pass their accounts, and to make and establish such rules of proceeding, and to transact all the other business and concerns, for the purpose of carrying this act into execution.

Authorized to demand toll agreeably to the rate herein, after navigation is completed conformably to this act.

8. *And be it further enacted*, That for and in consideration of the expense the subscribers will be at, not only in cutting canals, erecting locks, and other labour for opening and extending the navigation of the said river, but in maintaining and keeping the same in repair, it shall and may be lawful for the said trustees and their successors at all times after the said river shall be made navigable, agreeable to this act, to demand and receive at such place or places upon the said river as they may think most convenient, for all commodities transported up or down the same, tolls, according to the following table of rates, viz:

	Cents.
Every pipe or hogshead of wine, containing more than sixty-five gallons,	63
Every hogshead of rum, or other spirits,	50
Every hogshead of tobacco,	42
Every cask between sixty-five and thirty-five gallons, half of a pipe or hogshead, barrels, one fourth part, and smaller casks or kegs in proportion according to the quality and quantity of their contents of wine or spirits.	
For casks of linseed oil, the same as spirits.	
Every bushel of wheat, peas, beans, or flax seed,	2
Every bushel of Indian corn, or other grain, or salt,	1
Every barrel of pork,	21
Every barrel of beef,	15
Every barrel of flour,	10
Every ton of hemp, flax, potash, bar or manufactured iron,	105
Every ton of pig iron or castings,	35
Every ton of copper, lead, or other ore, other than iron ore,	83
Every ton of stone or iron ore,	17



	Cents.
Every hundred bushels of lime,	53
Every chaldron of coals,	17
Every hundred pipe staves,	8
Every hundred hogshead staves, or pipe or hogshead heading,	5
Every hundred barrel staves, or barrel heading,	4
Every hundred cubic feet of plank or scantling,	35
Every hundred cubic feet of other timber,	20
Every gross hundred weight of all other commodities or packages,	5
Every boat or vessel which has not commodities on board, to yield so much, provided that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repass toll free,	105
Which tolls may be discharged in gold or silver coin only.	

9. And in case any person shall refuse or neglect to pay the tolls at the time of offering to pass the place appointed for the payment thereof, and previous to the vessel's passing the same, the collector of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass without paying toll, then the said collector may seize such vessel wherever found, and sell the same at auction for ready money, which so far as is necessary, shall be applied towards paying the said tolls, and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner, and the person owning or having the direction of such vessel, shall be liable for such toll, if the same is not paid by the sale of such vessel.

10. The profits arising from the said tolls shall be and the same are hereby vested in the said trustees and their successors forever, to and for the purpose of clearing out and keeping in repair the canals, locks, and other works upon the said river, and the overplus to and for the use of the holders of said shares, and their heirs, as tenants in common, to be apportioned among them according to the number of shares by them respectively held, and the same shall be deemed real estate, and be forever exempt from payment of any tax or imposition whatsoever.

11. *And be it enacted*, That it shall and may be lawful for every subscriber to transfer his interest in the said canals or works, in the same manner, and under the like conditions and exceptions as are prescribed by the act, intituled, "*An act for opening and extending the navigation of Patowmac river.*"

12. The owners of mills on the said river Appamattox, above Banister's mill, and every of them, shall, within eighteen months after passing this act, erect good and sufficient locks through their dams, or on canals convenient and proper around them, so as to procure an easy, safe, and expeditious passage for loaded canoes, boats and batteaus, both up and down the said river, through or around each and every of the said dams; and moreover, the said owners of mills on the said river, shall keep the said locks in good and sufficient repair, and cause to be given constant attendance at the same, by some person or persons, whose duty it shall be to work and manage the said locks, at all times, when thereto required by any person for the purpose of passing through the same with craft, as aforesaid, without delay, giving them free passage, and on failure so to do, the offender shall forfeit and pay the sum of twenty dollars, for every time such failure shall happen, and be moreover

Penalty on persons refusing or neglecting to pay toll.

Profits accruing in virtue of this act, vested in the trustees for the benefit of subscribers.

Shares transferable and how.

Owners of mills to erect locks within a certain time and keep the same in repair, &c.





liable to the party aggrieved for damages; which said penalty may be recovered in the court of the county where the offender resides, by motion, on ten days previous notice, by any person who will inform and sue for the same.

Dams wherein such locks, &c. are not erected declared nuisances and liable to be thrown down at the expense of the owner.

13. *And be it enacted*, That if any owner or owners of mills on the said river, shall refuse or fail to build such good and sufficient locks, for passing through or around his or their mill dam, or mill dams, as aforesaid, for the purposes of this act, within eighteen months, as aforesaid, then, and in that case, the mill dam or mill dams, not having such locks, are hereby declared to be nuisances, and shall and may be abated and thrown down and destroyed. And the trustees aforesaid, or their successors, are hereby empowered and directed, to cause the said dams to be cleared away, and to present an account of the reasonable expense thereof, to the owners of the same, which expenses he or they shall pay, or on failure, the amount thereof may be recovered against him or them, by the said trustees, on motion to the court of the county, giving him or them ten days previous notice thereof.

Penalty on persons permitting a tree to be felled in the river.

14. *And be it further enacted*, That if any landholder on the said river, shall suffer any tree to be felled from his land, into the same, and therein to remain, for the space of twenty-four hours, at any time after the navigation of the same hath become practicable, every such landholder shall forfeit and pay the sum of seven dollars, to any person who will inform or sue for the same in any court of record: *Provided nevertheless*, That the said trustees and their successors, shall be authorized to demand, receive and compel payment of half toll, whenever they shall have rendered the said river navigable, according to this act, from Roger Atkinson's mill, to the highest part capable of navigation. So much of all and every act and acts as comes within the meaning of this act, is hereby repealed.

Proviso.

Commencement.

15. This act shall commence and be in force from and after the passing thereof.

CHAP. 36.—An ACT for opening and improving the navigation of Quantico creek, in the county of Prince William.

[Passed December 5, 1795.]

Preamble.

Whereas it is represented to this present general assembly, that the navigation of Quantico creek, in the county of Prince William, has become so obstructed by the quantity of mud and sand settled therein, as frequently to occasion considerable delays and difficulties in shipping the produce of the country, from the town of Dumfries, and that to improve the navigation of the said creek, will be of great benefit and public utility, for which purpose many persons are willing to subscribe considerable sums of money:

Commissioners for receiving subscriptions for shares to a certain amount, to give notice thereof, and call a meeting of the subscribers.

1. *Be it therefore enacted*, That Alexander Henderson, Jesse Ewell, John Lawson, James Muschett, Willoughby Tebbs, Timothy Brundidge, John Williams, James Smith, Thomas Chapman, senior, Philip Dawe, James Deneal, John Love, James Gardiner, Martin Picket and Vincent Gray, gentlemen, be, and they are hereby appointed commissioners, for receiving and entering subscriptions to the amount of ten thousand dollars for the said undertaking, which subscriptions shall be made personally, or by power of attorney, and shall be in Spanish milled dollars, but may be paid in other silver, or in gold coin, of the same value. That books shall be opened for receiving subscriptions on the first Monday in February



next, and continue open until the tenth day of April next, inclusive, and on the first Monday in June there shall be a general meeting of the subscribers at the town of Dumfries, of which meeting, notice shall be given by the said commissioners, or any three of them, in the Dumfries paper, if there be one, if not, either in the Fredericksburg or Alexandria paper, at least one month, next before the said meeting; and such meeting may be continued from day to day until the business is finished.

2. The commissioners, at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the subscriptions, and if one half of the capital sum aforesaid, should, upon examination, appear not to have been subscribed, then the said commissioners, at the said meeting, are empowered to take and receive subscriptions, to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out, and returned by the said commissioners, or any three or more of them, under their hands, into the county court of Prince William, to be there recorded. And in case more than ten thousand dollars shall be subscribed, then the same shall be reduced to that sum by the said commissioners, or a majority of them, by beginning at, and striking off, from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the said capital of ten thousand dollars, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums, to determine the number in which such subscribers shall stand, on a list to be made for striking off as aforesaid, and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there be still an excess, then lots to be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid; and the said capital sum shall be reckoned and divided into two hundred shares of fifty dollars each, of which every person subscribing, may take and subscribe for one or more whole shares, and not otherwise: *Provided*, That unless one half of the said capital shall be subscribed, all subscriptions made in consequence of this act, shall be void; and in case one half, and less than the whole of the said capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and required to take and receive the subscriptions which shall be first offered, in whole shares aforesaid, until the deficiency shall be made up; a certificate of which additional subscriptions shall be made under the hands of the president and directors, or a majority of them for the time being, and returned to, and recorded in, the county court of Prince William as aforesaid.

Shall exhibit to a meeting of subscribers, the books containing said subscriptions: Mode of proceeding in case one half the said subscription is not completed and also in case of excess thereof, so as to reduce to the capital proposed.

3. *And be it enacted*, That in case one half of the said capital, or a greater sum shall be subscribed, as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a company by the name of the "Quantico Company," and may sue and be sued as such; and so many of the said subscribers as

Proviso.

In case of shares being subscribed to half the amount of capital subscribers thereupon incorporated, and by what name, &c.





shall be present at the said meeting, or a majority of them, are hereby empowered and required, to elect a president and four directors for conducting the said undertaking, and managing the concerns and business of the said company, for, and during such time, not exceeding two years as the said subscribers, or a majority them, shall think fit. In counting the votes of all general meetings of the said company, each member shall be allowed one vote for each share, as far as five shares, and one vote for every three shares above five, by him or her held at the time in the said company; and any proprietor, by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

President and directors may contract for carrying this work into effect, and appoint treasurer, &c. &c.

4. The said president and directors, so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said company, to do and perform such work or works, as they shall judge necessary for opening and improving the navigation of Quantico creek, as far up the same as the upper boundary of the town of Dumfries, upon such terms, in such manner, and from time to time, as they shall think fit; and out of the money arising from the subscriptions, and out of the tolls herein after given, to pay for the same, and to defray all incidental charges, and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and to settle and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business of the said company, in, and during the intervals, between the general meetings of the same; and be allowed as a satisfaction for their trouble therein, such a sum of money, as shall, by a general meeting of the subscribers, be determined.

Treasurer to give bond and security for the due discharge of the trust, &c.

5. The treasurer shall give bond in such penalty and with such security, as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and the allowance to be made to him for his services, shall not exceed five dollars in the hundred, for the disbursements by him made; and that no officer in the said company, shall have any vote in the passing or settling of his own account.

President and directors may demand money and direct when and in what proportions subscribers shall pay the same, giving public notice thereof.

6. The president and directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and to direct at what time, and in what proportion, the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Dumfries newspaper, if there be one, if not, then in the Alexandria or Fredericksburg paper, and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for defraying the expense of removing the obstructions in the channel of Quantico creek and deepening the same, until the sums subscribed shall be fully paid, and to order the said sums to be deposited into the hands of the treasurer, to be by him disbursed and paid out as the president and directors, or a majority of them, shall order.

Shares of delinquent subscribers may be sold at auc-

7. If any of the said proprietors shall neglect or refuse to pay their respective proportions within one month after the same shall



be so ordered and advertised as aforesaid, the president and directors, or a majority of them, may sell at auction and convey to the purchaser the share or shares of such proprietor so neglecting or refusing payment, giving at least one month's notice of the sale in the newspaper as aforesaid, and after retaining the sum due and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced, as aforesaid, with incidental charges, the said president and directors, or a majority of them, may, in the name of the company recover the balance by motion in any court of record, on giving the party ten days previous notice thereof; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the sale and conveyance had been made by the original proprietor.

8. For continuing the succession of the said president and directors, and to keep up the same number, *Be it enacted*, That from time to time upon the expiration of the said term, for which the president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either appoint the said president and directors, or any of them, or choose others in their stead, and in case of the death, removal, resignation or incapacity of the president or any of the said directors, shall and may, in the manner aforesaid, elect any other person or persons to be president and directors in the room of him or them so dying, removing or resigning; and may at any time of their general meetings remove the president or any of the said directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted. Every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

9. The presence of proprietors holding one hundred shares at the least, shall be necessary to constitute a general meeting and that there be a general meeting of proprietors on the first Monday in June in every year, at the said town of Dumfries; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn such meeting from day to day till a general meeting of proprietors shall be had, which may be continued from day to day until the business of the company is finished, to which meeting the president and directors shall make report, and render distinct and just accounts of their proceedings; and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered in the books of the said company; and at such yearly general meetings, after leaving in the hands of the treasurer, such sum, as the proprietors, or a majority of them, shall judge necessary for contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made, to and among all the proprietors of the said company in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company at the said town of Dumfries, giving at least one month's previous notice in either of the newspapers aforesaid, which meeting may be adjourned and continued as aforesaid.

Subscribers at general meetings to elect president and directors for the purposes herein, or continue the preceding president and directors. How vacancies in the number of trustees are to be supplied.

What number of shares represented by persons present shall be necessary to constitute a general meeting: Accounts of the company to be returned to such meeting, &c.





Tolls demandable of persons using this navigation for the transportation of certain articles.

10. That for and in consideration of the expenses the said proprietors will be at not only in opening and improving the navigation of the said creek, but keeping the same open and removing obstructions therein from time to time, the said creek from the upper boundary of the said town to its entrance into the Patowmac river, shall be, and the same is hereby vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition or assessment whatever; and that it shall and may be lawful for the said president and directors, at all times forever hereafter, to demand and receive at the most convenient place on the said creek, for all commodities to be transported down and out of the said creek, tolls according to the following table or rates, to wit:

	Cents.
For every hogshead of tobacco,	10
For every barrel of flour,	2
For every hundred pounds weight of hemp,	1
For every bushel of wheat, corn, beans, pease or flax seed,	$\frac{1}{2}$

Penalty on persons refusing or neglecting to pay tolls.

11. In case of refusal or neglect to pay the toll at the time of, or previous to the vessel's attempting to leave her mooring, the collectors of the said tolls may lawfully detain such vessel until such toll be paid; and if any vessel shall go out of the said creek, without having first paid the tolls as aforesaid, then the said collectors or either of them may seize such vessel wherever found, and sell the same at auction, for ready money, which so far as is necessary, shall be applied towards paying the said toll and all expenses of seizure, and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel, shall be liable for the toll, if the same is not paid by the sale of such vessel as aforesaid: *Provided*, That the said proprietors, or a majority of them, holding at least one hundred and fifty shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them, or to determine that any article may pass free of toll.

Proviso.

Waters herein mentioned, vested in the subscribers and their heirs, and shares transferable.

12. *And be it enacted*, That the said creek as far as the termination of tide water, shall forever be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities or produce whatsoever, on payment of the tolls imposed by this act; and no other toll or tax whatever, for the use of the water of the said creek shall hereafter be imposed. It shall be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses, and registered, (after proof of the execution thereof,) in the books of the said company, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books, before the devisee or devisees, shall be entitled to draw any part of the profits from the said tolls: *Provided*, That no transfer whatsoever, shall be made, except for one or more whole share or shares, and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred, or held in trust for the use and benefit, or in the name of another, whereby the president and directors, or proprietors of the said company, or any of them, shall or may be challenged, or made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor shall as to the others of the said company, be to every intent

Proviso.



taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

13. This act shall commence and be in force from and after the Commencement. passing thereof.

CHAP. 37.—An ACT for opening and improving the navigation of Piankitank river, and the waters thereof.

(Passed December 1, 1795.)

Whereas it is represented to the general assembly, that the opening, improving and extending the navigation of Piankitank river, and that part of the waters thereof, commonly called the Dragon swamp, to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for effecting the same:

1. *Be it therefore enacted*, That Anthony Gardner, Thomas Fauntleroy, Thomas Segar, Thomas Roane, (of Middlesex,) Ralph Wormeley, Philip L. Grymes, Iveson Lewis, James Evans, Thomas Evans, Newman Brokenborough, Christopher Garland, John Kidd, Lyne Shackelford, and Peter Wyatt, be, and they are hereby constituted and appointed trustees, for clearing, improving, and extending the navigation of the said river and its waters aforesaid, from tide water, as far up the same as they may judge it practicable, so as to have sufficient depth and width of water, to navigate boats, batteaus, or canoes, capable of carrying four hogsheads of tobacco; any five of which trustees, or their successors, shall be a board sufficient to act; that the said trustees shall hold their places for the term of two years only, from the time the subscription hereafter mentioned is completed, and that new trustees shall every two years be elected by the subscribers holding a majority of shares, each subscriber giving one vote for every share he possesses, and voting either in person or by proxy: *Provided always*, That until an election shall be made from time to time by those holding shares, or a majority thereof, the former trustees shall continue to act, although their two years may have expired.

Trustees for the purpose of carrying this law into effect, five of whom may act.

2. The said trustees shall have power to receive subscriptions, for so many shares at the rate of five pounds for each share, as they shall deem adequate to the purposes of this act.

Authorized to receive subscriptions.

3. If any person or persons, his, her, or their executors or administrators, holding any share or shares so as aforesaid subscribed, shall fail to pay the amount, or so much thereof as shall be required, by the said trustees or their successors from time to time, at such time as they shall direct, it shall be lawful for the said trustees and their successors, to recover the same by motion, in the court of the county where the person resided at the time of his subscribing: *Provided*, He, she, or they, have ten days previous notice of such motion; and upon executions issued upon judgments so obtained, no security shall be taken, and the clerks of the several courts respectively, shall indorse accordingly; or instead of such proceeding, against delinquent subscribers, their executors and administrators, the said trustees and their successors, at their option, may proceed to sell, by way of public auction, such delinquent share or shares, provided that one month's notice of the time and place of such sale, be given at the courthouses of the counties of King & Queen, Gloucester, Middlesex and Essex: *Provided also*, That no share

Subscribers failing to pay demand made, liable to recovery by motion.

Proviso.

Further proviso.





or shares shall be sold, if the holder or holders thereof, their executors or administrators, shall, on or before the time appointed for such sale, tender to the person authorized to receive the same, the amount of such share or shares or the requisition made thereon.

May appoint a treasurer who shall enter into bond with security.

Person so appointed, his executors, &c. liable, on failure to pay monies when required, to recover by motion.

Proviso.

Trustees may appoint a clerk and other necessary officers.

Incorporated—style of said corporation.

May appoint successors in case of death, and may contract for work necessary to be done in pursuance of this act.

4. The said trustees and their successors, shall have power to nominate and appoint, from time to time, a proper person to be receiver of all money subscribed under this act, who shall give bond with approved security, in the penalty of two thousand pounds, payable to the said trustees and their successors, for the time being, with condition, that he, his heirs, executors or administrators, at all times when required, will, truly and faithfully account for all sums of money, that shall or may come to his hands for the purposes of this act, and pay the same to such person or persons, as the said trustees and their successors, shall order and direct; and if any such receiver, his executors or administrators, shall fail to pay any money by him received by virtue of this act, at such time, and in such manner, as the said trustees and their successors shall so direct, it shall and may be lawful for the said trustees, and their successors, to recover the same by motion, in the court of that county, where the said receiver resided, at the time of his being appointed receiver: *Provided*, He, his executors or administrators, have ten days previous notice of such motion; and upon executions issued upon judgments so obtained, no security shall be taken, and the clerks of the several courts respectively, shall indorse accordingly.

5. The said trustees and their successors, shall have power from time to time, to appoint a clerk, and to keep a fair record of their proceedings, which said proceedings, at the end of every meeting, shall be signed by the members present, and attested by the clerk, and be admitted as testimony in any controversy, between the trustees and those interested in the shares, or between the latter themselves.

6. The said trustees and their successors, shall be, and they are hereby declared to be, incorporated by the name and style of the trustees of the Plankitank canal company, and may sue and be sued as such.

7. In case of the death, removal to the distance of twenty miles from the said river, or its waters aforesaid, resignation, or incapacity of any of the said trustees, or their successors, it shall and may be lawful for the said trustees and their successors, to appoint other trustees to fill up such vacancies, which trustees so appointed, shall continue to act until the next general election, and no longer. The said trustees or their successors, shall, as soon as may be, proceed to view the said river, and its waters aforesaid, and ascertain as nearly as they can, the highest part capable of navigation, according to this act; and to contract with any person or persons, for clearing and improving the navigation of the same, in such manner as the said trustees and their successors shall judge proper; and out of the money raised by virtue of this act, to pay for the same, and to repair and keep in order the said canal, and other works thereon, and to defray all incidental charges, and to appoint such toll gatherers, managers, and servants as they shall judge requisite, and to agree for, and settle their respective wages or allowances, and settle and pass their accounts, and make and establish such rules of proceeding, and to transact all other business for the purpose of carrying this act into execution.



8. And whereas it may be necessary in some parts of the said river, and its waters aforesaid, to straighten the same by cutting away the bank, or by a canal, and also to erect houses on the banks of the same, for the use of toll-gatherers, *Be it therefore enacted*, That it shall and may be lawful for the said trustees and their successors, to agree with the owners of any land, through which the said canal is intended to pass, or on which any house shall be thought necessary to be erected, for the purchase of the same, or in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act, intituled, "*An act for opening and extending the navigation of Patowmac river*," and such valuation shall be paid by the trustees to the owner of the said land, or his or her legal representatives, and on payment thereof, the said land shall thenceforth be vested in the said trustees and their successors, in fee, for the purposes of this act.

May agree for any land through which it may be necessary to conduct the navigation, or have the same condemned to their use.

9. *And be it further enacted*, That for and in consideration of the expense the subscribers will be at, not only in cutting canals, or other labour, for opening and extending the navigation of the said river, and its waters aforesaid, but in maintaining and keeping the same in repair, it shall and may be lawful for the said trustees and their successors, at all times after the said river, and its waters aforesaid, shall be made navigable, agreeable to this act, to demand and receive, at such place or places, upon the said river, and its waters aforesaid, as they may think most convenient, for all commodities transported up or down the same, toll according to the following table or rates, to wit:

Tolls demandable for the use of this navigation in the transportation of certain articles.

	Cents.
Every pipe or hogshead of wine, containing more than sixty-five gallons,	50
Every hogshead of rum or other spirits,	25
Every hogshead of tobacco,	17
Every cask or barrel in proportion, according to the quantity of their contents of wine or spirits.	
Every bushel of wheat,	1
Every two bushels of Indian corn, peas, beans or salt,	1
Every barrel of pork or beef,	12
Every barrel of flour,	10
Every barrel of tar, pitch or turpentine,	6
Every hundred bushels of oyster shells or lime,	12
Every hundred pipe staves,	8
Every hundred hogshead staves, or pipe or hogshead heading,	6
Every hundred barrel staves, or barrel heading,	4
Every hundred shingles under twenty-one inches long,	2
Every hundred shingles over twenty inches long,	3
Every hundred boards,	4
Every hundred cubic feet of plank or scantling,	1
Every hundred cubic feet of other timber,	12
Every gross hundred weight of all other commodities,	3
Every boat or other vessel, which has not commodities on board to yield so much, provided that an empty boat or vessel returning, whose load has already paid the toll at the respective places, shall repass toll free,	50





Penalty on persons neglecting to pay tolls.

10. And in case any person or persons shall refuse or neglect to pay the tolls at the time of offering to pass the place, appointed for the payment thereof, and previous to the vessel's passing the same, the collectors of the said tolls may lawfully refuse passage to such vessel: And if any vessel shall pass without paying toll, then the said collector may seize such vessel wherever found, and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said tolls, and all expenses of seizure and sale, and the balance, if any, shall be paid to the owner; and the person owning or having the direction of such vessel, shall be liable for such toll, if the same is not paid by the sale of such vessel.

Profits herefrom accruing, how appropriated; and interest herein declared real estate.

11. The profits arising from the said tolls shall be, and the same are hereby vested in the said trustees and their successors forever, to and for the purpose of cleaning out, and keeping in repair, the canal and other works upon the said river, and its waters aforesaid; and the overplus to, and for the use of, the holders of said shares and their heirs as tenants in common, to be apportioned among them according to the number of shares by them respectively held, and the same shall be deemed real estate, and be forever exempt from payment of any tax or imposition whatsoever.

Penalty on owners or occupiers of land, &c. permitting a tree to be fallen in, so as to obstruct navigation.

12. If any land holder on the said river, and its waters aforesaid, being resident thereon, if not, the tenant or overseer, shall suffer any tree to be felled from his land, or the land of which he is tenant or resides on as overseer, into the canal of the same, and therein to remain for the space of twenty-four hours, at any time after the navigation of the same is practicable, every such land holder, tenant or overseer, shall forfeit and pay the sum of forty shillings, to be recovered with costs, by petition in any court of record, within this commonwealth, to be sued for in the name of the trustees and their successors, to the use of those entitled to the tolls, in manner aforesaid.

Penalty on persons or their assistants in making weirs, &c.

13. *And be it further enacted*, That if any person shall make, or erect any hedge, weir, or stop, in any part of the said canal, after the navigation of the same shall have become practicable, or shall aid, or assist, in making, or erecting any such hedge, weir, or stop, the person so offending, shall for every such offence, forfeit and pay the sum of one hundred pounds, to be recovered with costs by action of debt or information in any court of record within this commonwealth, to be sued for in the names of the said trustees and their successors, for the use of those entitled to the tolls in manner aforesaid.

Trustees may direct owners of mills to cut slopes or wastes, &c. for the purposes herein mentioned, when thought necessary.

14. And whereas much injury may arise to the canal and other works thereon, by the sudden drawing off of large quantities of water from mills already erected, or which may hereafter be erected, upon the waters of the said river; for remedy whereof, *Be it enacted*, That wherever the said trustees and their successors shall deem it necessary, they may, by an order to be entered upon their record, direct the owner or occupier of such mill or mills, to cut wastes or make falling dams, of such width and depth, as to the said trustees shall seem proper in aid of the flood gates of the said mill or mills, for the gradual drawing out the water thereof; any owner or occupier of such mill or mills, failing to comply with such direction, within six months from the time of having notice thereof, shall forfeit and pay the sum of one hundred pounds for every such offence,



to be recovered in the same manner, and for the like use, as the forfeiture last mentioned.

15. All suits by or against the trustees shall be in the names of them and their successors, nor shall any suit abate upon the going out of office of any trustee or trustees, by death, resignation or otherwise, but shall proceed to judgment and execution, as if no change had taken place, for the benefit of the trustees or party suing. Suits against the trustees, how brought, &c.

16. It shall and may be lawful for any subscriber to transfer his interest in the said canal works and tolls, in the same manner and under the like conditions and regulations as are prescribed by the first recited act. Interest of subscribers transferable.

17. This act shall commence and be in force from and after the first day of January next. Commencement.

CHAP. 33.—An ACT incorporating the overseers of the poor of the county of Frederick, and the overseers of the poor for the borough of Winchester, and for other purposes.

(Passed December 16, 1795.)

Whereas it hath been represented to the general assembly, that the overseers of the poor of the county of Frederick, and the mayor, recorder and aldermen of the borough of Winchester, have erected at their joint expense a poor house in the said borough, sufficiently commodious for the reception and accommodation of the poor of the said county and borough, and it is judged expedient to carry their intention into effect, and to legalize certain other acts which have been productive of salutary effects, and have had for their object the good of the said places: Preamble.

1. *Be it therefore enacted by the general assembly,* That the said house so erected shall be, and is hereby established a house for the reception of the poor of the said county and borough: And the said borough of Winchester shall from henceforth be added to the said county of Frederick, and form another district in the said county. The overseers of the poor in this additional district, shall be chosen in the same manner as the law now directs, and shall have the same power within their district as they have heretofore had, together with the same authority and right in the said poor house, and all other matters relative to the providing for the poor in the said county, as any other district hath. Poor house herein described, its uses, and the overseers of the county of Frederick and borough of Winchester to act conjointly.

2. And whereas the said overseers of the poor for the said county of Frederick, and the mayor, recorder and aldermen of the said borough of Winchester, have, in the month of October last past, chosen a manager and physician for the said poor house, when by law a general meeting is confined to the month of March, and the power of appointing such manager and other necessary officers, is by the same law confined to the county and corporation courts: *Be it further enacted by the general assembly,* That the manager, physician and other officers so chosen as aforesaid, shall be continued in their several offices for the time for which they were chosen, under the control and direction of, and liable to be removed by the overseers of the poor of the said county of Frederick, who shall hereafter have the power of choosing the said officers at any period they deem necessary: *Provided however,* That the mayor, recorder, and the senior alderman of the said corporation, shall from Certain proceedings of the overseers of Frederick herein mentioned, legalized. Proviso.





henceforward be the overseers of the poor within and for the said district and town of Winchester.

Commencement. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. 39.—An ACT to discontinue the inspection of tobacco in the town of Alexandria.

(Passed December 4, 1795.)

Preamble.

Whereas it hath been represented that the warehouses for the reception and inspection of tobacco, in the town of Alexandria, are no longer necessary for that purpose :

Inspection of tobacco discontinued, and lands revested in former owners.

1. *Be it therefore enacted*, That the inspection of tobacco at the said place, shall be, and the same is hereby discontinued, and the lot and houses shall be revested in William Hepburn and John Dundas, their heirs and assigns, in like manner as if the same had not been appropriated to public use: *Provided nevertheless*, That all the tobacco now remaining in the said warehouses, shall be from thence discharged according to law. Nothing in this act contained shall be construed or taken to affect or impair the legal right or title of any person or persons whatsoever to the said lot of ground or warehouses.

Proviso.

Repealing clause.

2. All and every act and acts, coming within the meaning of this act, is hereby repealed.

Commencement.

3. This act shall commence and be in force from and after the first day of January next.

CHAP. 40.—An ACT for the relief of the people of Washington, Botetourt, and other counties respecting the arrears of their certificate taxes.

(Passed December 10, 1795.)

Preamble.

Whereas it is represented to this general assembly, that the inhabitants of the county of Botetourt, and such of the inhabitants of the county of Bath and Montgomery, as were included within the bounds of the county of Botetourt, are in arrears for their certificate taxes due upon their lands, for the years one thousand seven hundred and eighty-three, one thousand seven hundred and eighty-four, and one thousand seven hundred and eighty-five, and it appearing to this assembly that the nonpayment thereof, at the several periods on which they became due, was not the fault or neglect of the people, the law which required the appointment of commissioners for equalizing the land tax, not having come into the possession of the court by the time mentioned in the said law for appointing the said commissioners, but that they were always willing to have paid the same, provided they had been demanded by the sheriffs or collectors, which they were not authorized to collect, as no commissioners were appointed by the court of the county for those several years. And whereas the inhabitants of the county of Washington, and those of Russell and Lee, who were divided from the county of Washington, and formed into separate and distinct counties, are also in arrear for their certificate taxes for the years one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, and that the nonpayment thereof, was not the fault or neglect of the people, but arose from the circumstance of there being no collectors in said county for those several years, at which several periods Washington county included the counties of Russell and Lee, and the certificates being now



principally, if not altogether redeemed, and it would prove burthensome and heavy on the inhabitants of those several counties to pay the same at their nominal value in specie :

1. *Be it therefore enacted by this general assembly, That the inhabitants of Botetourt, and such of the inhabitants of Bath and Montgomery counties who lived in the bounds of Botetourt, at those several periods at which the taxes aforesaid are in arrear and due, and that the inhabitants of Washington, and those of Lee and Russell counties, who were included in the bounds of Washington in the years one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, be allowed and permitted to discharge and pay to the collectors of said counties respectively, the amount of their certificate taxes for the several years aforesaid, at the rate of six shillings and eight pence in the pound: Provided nevertheless, That if any sheriff or collector in any of the counties aforesaid, should have received any part of the certificate tax, for any of the years aforesaid, he shall pay the same, or in specie at the nominal sum of said certificates.*

Inhabitants of counties herein mentioned, may discharge their certificate taxes in specie at a certain rate.

Proviso.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 41.—An ACT to explain an act, intituled, “An act for establishing a mutual assurance society against fire on buildings in this state.”

(Passed December 23, 1795.)

Whereas it hath been represented to the general assembly, that in conformity with the requisitions of an act passed on the twenty-second day of December, in the year of our Lord, one thousand seven hundred and ninety-four, intituled, “*An act for establishing a mutual assurance society against fire on buildings in this state,*” three millions of dollars and upwards have been subscribed for the purposes in the said act mentioned, and that at a numerous meeting of the subscribers lately held in the city of Richmond, agreeable to a previous notification in the Virginia gazette, doubts had been suggested relative to the meaning and construction of the said act, which were likely to prevent the plan thereby contemplated from being carried into effect, and it is therefore necessary for removing such doubts, so to explain the said act, as that the supposed ambiguities therein may be done away:

1. *Be it enacted, and it hereby is enacted, That the said subscribers, a majority of them in person or by deputation, being present, or a majority of the sum subscribed when any meeting shall be held, being there represented, shall have power and authority to proceed and act in all matters and things in the first recited act mentioned, in as full, absolute and unlimited a manner as they might or could do if all and every of the said subscribers were actually present and attending at any such meeting: Provided always, That no meeting subsequent to the one now assembled or to be assembled next after the passing of this act, (respecting which no farther notification need be given) shall be authorized to proceed on any business whatsoever concerning the said institution, without having given at least three weeks notice in the Virginia gazette, of the time when, and the place where, such meeting is to be held. But it shall be lawful for any meeting, fifteen members being present, to adjourn from day to day, until their business shall be finished.*

Majority of subscribers, in person or by deputation may proceed herein.

Proviso.





For what premiums property liable to be sold.

2. *And it is hereby farther enacted and declared,* That the premiums, for the nonpayment of which, property agreeable to the said first recited act, may be sold, shall be understood to be those premiums only, which under the regulations to be formed by the said society, shall become payable in consequence of any insurance to be hereafter made, or subscribed for, with the said society.

Commencement.

3. This act shall be in force and have effect from the passing thereof.

CHAP. 42.—An ACT to alter the boundary line of the counties Botetourt and Montgomery.

(Passed December 14, 1795.)

Preamble.

Whereas it is represented that the line dividing the counties of Botetourt and Montgomery, is inconvenient and imperfect: For remedy whereof,

Boundary line between Botetourt and Montgomery.

1. *Be it enacted,* That the said counties shall be divided by the following bounds, to wit: Beginning on the line of Franklin county, on the Blue Ridge, three miles on a north-west direction from Noffsenger's mill, thence along the ridge dividing the head waters of Back creek, from the head waters of Black water and Roanoke, round to a path from Roanoke, to Back creek, crossing the said ridge above and near where John Reynolds lives, thence a straight line to John Glen's, on the Catawba road, thence a straight line to John Webb's mill, on Sinking creek, and thence north, forty degrees west to the line of Greenbrier county.

Sheriff of Montgomery to collect monies heretofore due.

2. It shall be lawful for the sheriff of the said county of Montgomery, to collect and make distress for any public dues and officers' fees, which shall remain unpaid, at the time of passing this act, by the inhabitants of that part of the said county of Montgomery, which will be included by the said boundary in the county of Botetourt: *Provided always,* That nothing herein contained shall be deemed or taken to affect or prejudice the entries and surveys of land lying between the former and present boundaries of the said counties, but that the same proceedings shall and may be had respecting the same, as if this act had not been made.

Proviso.

Repealing clause.

3. So much of any act as comes within the meaning of this act is hereby repealed.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 43.—An ACT for erecting slopes on the mill dams across Southanna river.

[Passed December 15, 1795.]

Preamble.

Whereas it hath been represented to this assembly, that the passage of fish up Southanna river, in the county of Hanover, is greatly obstructed by the building of mill dams across the same:

County court of Hanover to grant orders for building slopes in Southanna river.

1. *Be it therefore enacted,* That it shall be lawful for the court of the said county of Hanover, and it is hereby required, upon the application of any person or persons whatsoever for that purpose, to grant him or them an order for making or building a slope in, or over, any mill dam lawfully built across the said river; which slope or slopes shall not exceed twenty feet in width, and be so constructed as to admit the free and easy passage of fish, but not to injure the dam or mill thereby.

Commencement.

2. This act shall commence and be in force from the passing thereof.



CHAP. 44.—An ACT for erecting slopes in the dams across South river, in the county of Augusta.

[Passed December 10, 1795.]

Whereas it hath been represented to this present general assembly, that the passage of fish up the South river, in the county of Augusta, is greatly obstructed by the building of mill dams and other dams across the same: Preamble.

1. *Be it therefore enacted*, That it shall be lawful for the court of the said county of Augusta, and it is hereby required, upon the application of any person or persons whatsoever for that purpose, to grant him or them an order for making or building a slope in, or over, any dam lawfully built across the said river; which slope or slopes shall not exceed twenty feet in width, and be so constructed as to admit the free and easy passage of fish, but not to injure the dam or mill thereby. County court of Augusta, to grant orders for building slopes in South river.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 45.—An ACT to amend an act, intituled, “An act for opening and clearing the navigation of Rappahannock river.”

[Passed December 11, 1795.]

Whereas an act, intituled, “*An act for opening and clearing the navigation of the Rappahannock river*,” hath not been carried into effect from many circumstances unforeseen at the time of passing the said act. And whereas the time limited by the said act, will be insufficient for completing the navigation of the river aforesaid: Preamble.

1. *Be it enacted*, That the further time of three years be given the Rappahannock company, to begin the work after the said company shall be formed, and the further time of five years be given them for completing the same; and that the managers named in the before recited act shall take measures, as they may find it most convenient, to carry the same into effect, agreeably to the act aforesaid. Further time allowed for commencing and completing the opening the Rappahannock.

2. *And be it further enacted*, That a book for receiving subscriptions shall and may be opened in the county of Westmoreland, under the management of Henry Lee, and Daniel McCarty, gentlemen, who shall have the same power as is granted to the managers named in the above mentioned act. Subscription book to be opened. Managers thereof and their powers.

3. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 46.—An ACT altering the time of the annual general meeting of the Dismal swamp canal company.

(Passed December 23, 1795.)

1. *Be it enacted by the general assembly*, That hereafter the annual general meeting of the Dismal swamp canal company, shall be held on the fourth Monday in October, in every year, instead of the first Monday in September. Time of annual meeting.

2. This act shall be in force so soon as an act of a like nature shall be passed by the legislature of North Carolina. Commencement.





CHAP. 47.—An ACT to establish several new ferries, and for other purposes.

(Passed December 24, 1795.)

Public ferries established across New river.

Tyger's valley.

James river.

Greenbrier river.

Rates across certain ferries on Rappahannock, and Patowmac.

Rates of carriages, &c.

Penalties on ferry keepers for demanding more than the legal rates.

Repealing clause.

Commencement.

1. *Be it enacted by the general assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of Henry Leybrooke, in the county of Montgomery, across New river, to his land on the opposite shore, the price for a man six cents, and for a horse the same; from the land of William Hill, in the county of Harrison, across Tyger's valley river, to the land of Stokeley Little, on the opposite shore, the price for a man four cents, and for a horse the same; from the land of Thomas E. Randolph, in the county of Goochland, across James river, to the land of Samuel H. Saunders, adjoining the town of Jefferson, the price for a man four cents, and for a horse the same; from the land of Collin Cocke, in the county of Prince George, across James river, to the land of Collier Harrison, on the opposite shore, the price for a man seventeen cents, and for a horse the same; and from the land of John Alderson, in the county of Greenbrier, across Greenbrier river, to the land of William Morris, on the opposite shore, the price for a man six cents, and for a horse the same.

2. *And be it further enacted*, That the rates for passing the following ferries shall be as followeth, that is to say: From the landing of Faunderoy, in the county of Richmond, across Rappahannock river, to the town of Tappahannock, on the opposite shore, the price for a man seventeen cents, and for a horse the same; and from Sarah Hooe's landing, in the county of King George, across Patowmac river to Cedar Point, in the state of Maryland, the price for a man fifty cents, and for a horse the same.

3. And for the transportation of wheel carriages, tobacco, cattle and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of nett cattle, as for one horse; for every sheep, goat or lamb, one fifth part of the ferriage for one horse; and for every hog, one fifth part of the ferriage for one horse, and no more.

4. If any ferry keeper shall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall, for every such offence, forfeit and pay to the party aggrieved the ferriages demanded or received, and two dollars, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

5. So much of any act as comes within the meaning of this act is hereby repealed.

6. This act shall commence and be in force from and after the passing thereof.

CHAP. 48.—An ACT establishing the boundaries of the land belonging to the county court of Lancaster, and for other purposes therein mentioned.

(Passed December 12, 1795.)

Preamble.

Whereas it is represented, that in or about the year one thousand seven hundred and forty-three, a certain Edwin Conway, granted to the county court of Lancaster, for public use, a certain lot or



piece of ground, lying in the said county; that in the year one thousand seven hundred and seventy-nine, a certain Job Carter, being unacquainted with the bounds of the said lot, and unable to obtain information thereof, (repeated searches having been to no purpose made for the said grant) purchased of a certain Peter Conway, heir at law, of the said Edwin Conway, a piece or parcel of land adjacent to and surrounding that above mentioned; that the said county court, to ascertain the bounds of the land, so as aforesaid granted to them, on the sixteenth day of September, one thousand seven hundred and eighty-four, made an order for laying off and surveying the same, which was accordingly executed by the surveyor of that county, on the tenth day of November, following. And whereas the grant aforesaid, hath lately been discovered, whereby it appears, that part of the land purchased as aforesaid, by the said Job Carter, and upon which he has made sundry valuable improvements, is included in that belonging to the said county court, and that the land as laid off and surveyed in November, one thousand seven hundred and eighty-four, is equally convenient for public use, as that contained within the bounds of the grant aforesaid, and the said Job Carter, having petitioned the legislature to quiet him in possession of such of the premises, as he has so improved, and the said court having signified their approbation thereto:

Bounds of land granted by Edwin Conway to county court of Lancaster, established, and part thereof vested in Job Carter.

1. *Be it enacted by the general assembly*, That the bounds of the said land as mentioned and described in the said survey, made in the year one thousand seven hundred and eighty-four, be and hereby are established, that the said land be vested in the justices aforesaid, and their successors, for the use of the said county; and that they or any five of them be authorized and empowered to execute by deed, to the said Job Carter, a full and complete conveyance of such part of the land contained in the grant aforesaid, to the said county court, as is not included in the survey aforesaid; which deed shall be considered as good and valid in law: Saving however to all and every person or persons, bodies politic or corporate, other than the said county court, or those claiming under them, any right, title or interest, which he or they might, or would have had, in or to the land last mentioned, or any part thereof, if this act had never been made.

2. This act shall commence in force from the passing thereof. Commencement.

CHAP. 49.—An ACT concerning Samuel Templeman and Thomas Spence.

(Passed December 17, 1795.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby authorized and directed, on proper application to him made, to issue to Samuel Templeman, and Thomas Spence, a warrant on the treasurer, for the sum of ninety-four dollars, twenty-five cents, for the balance of salaries due them, for services by them performed as inspectors at Nominy warehouse, from the tenth day of October, one thousand seven hundred and ninety-two, to the tenth day of October, one thousand seven hundred and ninety-three, which warrant so issued shall be paid by the treasurer out of the surplus of duties on tobacco exported.

Auditor to issue warrants to certain persons herein mentioned.

2. This act shall commence and be in force from and after the passing thereof. Commencement.





## CHAP. 50.—An ACT vesting in David Putney certain lands therein mentioned.

(Passed December 16, 1795.)

Interest of the  
commonwealth to  
certain lands here-  
in mentioned,  
vested in David  
Putney.

1. *Be it enacted by the general assembly*, That all the right, title and interest, which the commonwealth hath or may have, in, or to, two certain tracts or parcels of land lying in the county of Surry, which have become escheatable to the said commonwealth as the property of a certain Elizabeth Putney, who died seized thereof, intestate and without heirs, shall be, and the same are hereby vested in David Putney, who was the lawful husband of the said Elizabeth Putney, deceased, to be by him held and enjoyed in like manner, as if they had been legally devised to him. Saving however to all and every person or persons, body politic and corporate, other than the commonwealth, any right, title, or interest, which he or they might or would have had in, or to the said two tracts or parcels of land, or any part thereof, as if this act had never been made.

Saving the rights  
of others.

Commencement.

2. This act shall commence in force from the passing thereof.

## CHAP. 51.—An ACT to amend the act, intituled, "An act appropriating certain public taxes, to the opening a waggon road from the state road to the mouth of the Little Kanawha."

(Passed December 23, 1795.)

Preamble.

Whereas by an act of the general assembly, passed in the year one thousand seven hundred and eighty-six, intituled, "*An act appropriating certain public taxes, to the opening a waggon road from the state road to the mouth of the Little Kanawha, and for other purposes*," a certain portion of the taxes of the counties of Monongalia and Ohio, is appropriated to the purpose of opening a road from Morgan's town, in the county of Monongalia, to a new fishing creek, on the river Ohio, a part of which said taxes have been applied accordingly to the said purpose: And whereas it is represented to the present general assembly, that it would be of more public utility to apply the balance of the same to the purpose of opening a waggon road from Morgan's town to the mouth of Grave creek, on the said river Ohio:

Balance of certain  
taxes applied to  
opening a road  
from Morgan's  
town to Grave  
creek.

1. *Be it therefore enacted by the general assembly*, That the balance of the said taxes of the said counties of Monongalia and Ohio, shall hereafter be applied to the purpose of opening a waggon road from Morgan's town to the mouth of Grave creek, on the said river Ohio; and for the better carrying the same into execution:

Additional com-  
missioners for car-  
rying this act into  
effect.

2. *Be it further enacted*, That George Beelor, Dudley Evans, and George Stricker, gentlemen, shall be, and are hereby appointed commissioners, in addition to those appointed by the said recited act, who shall have the like power, and shall proceed in like manner, and under the like rules and regulations, to have the said road to Grave creek, opened as the said former commissioners have had and acted under, in regard to the road directed to be opened to Fishing creek, by the former act.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

## CHAP. 52.—An ACT allowing a further time to the purchasers of lots in the town of Kinsale, in the county of Westmoreland, to build thereon.

(Passed December 10, 1795.)

Preamble.

Whereas it has been represented to the present general assembly, that the purchasers of lots in the town of Kinsale, in the county of



Westmoreland, have been prevented from building on their lots, within the time allowed by law for that purpose :

1. *Be it therefore enacted by the general assembly,* That the further time of two years from and after the passing of this act, shall be allowed the proprietors of lots in the said town of Kinsale to build upon and save the same ; any law to the contrary notwithstanding. Further time allowed owners of lots in Kinsale to build thereon.

CHAP. 53.—An ACT for removing the obstructions to the passage of fish in Tyger's Valley river.

(Passed December 9, 1795.)

1. *Be it enacted by the general assembly,* That Robert Maxwell, Abraham Kettle, John Pancake, Abraham Springstone, Jacob Stornaker, Benjamin Hornback, Simon Reader, Hezekiah Rosincrantz, and Jonas Friend, gentlemen, shall be, and they are hereby constituted and appointed commissioners, for taking and receiving subscriptions for the purpose of defraying the expense of removing the obstructions to the passage of fish, in that part of Tyger's Valley river between the falls and the narrows near Cornelius Westfall's. Trustees appointed for purposes herein mentioned.

2. If any person shall neglect or refuse, when required to pay the money by him subscribed, it shall be lawful for the said commissioners, or the survivors of them, to recover the same by motion in the court of that county where the subscriber resides : *Provided,* The party has ten days previous notice of such motion, and the clerk shall endorse on every execution issued by virtue of this act, "No security to be taken." Penalty for neglecting to pay subscriptions. Proviso.

3. The said commissioners, or a majority of them, shall have power to contract and agree with one or more fit person or persons for removing the obstructions to the passage of fish in Tyger's Valley river between the falls thereof and the narrows near Cornelius Westfall's, and to take a bond or bonds with sufficient security for the due and faithful performance of the undertaking ; and out of the money arising from the subscriptions as aforesaid, to pay the expense thereof. Commissioners authorized to contract with any person for removing obstructions, &c.

4. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 54.—An ACT to ascertain the salary of the judge of the high court of chancery.

(Passed December 26, 1795.)

1. *Be it enacted by the general assembly,* That the salary of the judge of the high court of chancery, shall, and is hereby declared to be, after and at the rate of sixteen hundred sixty-six dollars and sixty-seven cents *per annum* payable in the like manner and proportions, as the salary heretofore allowed to the chancellor has been paid. Salary of the judge of the high court of chancery, and how payable.

2. This act shall commence in force and have effect on the first day of January next. Commencement.

CHAP. 55.—An ACT granting a sum of money to the directors of the public buildings for the purposes therein mentioned.

(Passed December 16, 1795.)

1. *Be it enacted by the general assembly,* That a sum of money not exceeding five thousand dollars, be granted to the directors of the public buildings, for the purpose of repairing or altering the roof of the capitol, and for finishing the said building, and the said A sum of money granted for repairing or altering the roof of the capitol.





money, or so much thereof, as shall be from time to time necessary for the purposes aforesaid, shall be paid out of any money in the public treasury, on warrant from the auditor, issued by direction of the executive.

Commencement. 2. This act shall commence in force from and after the passing thereof.

CHAP. 56.—An ACT for giving further time to the owners of lots in the town of Cartersville, in Cumberland county to build thereon, and for other purposes.

(Passed December 21, 1795.)

Further time allowed the owners of lots in Cartersville to build thereon.

1. *Be it enacted by the general assembly*, That the further time of five years shall be, and is hereby allowed to the purchasers or owners of lots in the town of Cartersville to build upon and save the same, and that a framed house not less than sixteen feet square built on a lot, shall be sufficient to save such lot from any forfeiture whatsoever; any law to the contrary notwithstanding.

Owners prohibited from building log houses, &c.

2. *And be it further enacted*, That it shall not be lawful for any owner or proprietor of a lot, to build thereon, a log or other house with a dirt or wooden chimney thereto; and in case any such house should be built, it shall and may be lawful for the trustees thereof, or a majority of them, to pull down and destroy the same.

Trustees authorized to make rules for regular building, &c.

Proviso.

3. *And be it further enacted*, That the trustees thereof, or a majority of them, are hereby empowered to make such rules and orders for the regular building of houses therein, repairing the streets, and removing of nuisances, as to them shall seem best: *Provided*, They form no by-laws, rules or regulations which may infringe the right of citizenship.

Trustees of unincorporated towns in this state may prohibit horse racing in the streets, and impose a penalty thereon.

4. *And be it further enacted*, That the trustees of the respective unincorporated towns of this commonwealth shall be, and they are hereby authorized, by by-laws not contravening laws heretofore, or which may hereafter be enacted by the legislature, to prohibit horse racing in the streets thereof, under a penalty not exceeding five dollars for every such offence, to be recovered of each offender, on information of either of the said trustees, before a justice of the peace of their respective counties, not being an inhabitant of their said towns; the sum so recovered shall be by the said trustees appropriated towards repairing the streets within their said town.

Commencement.

5. This act shall be in force from and after the passing thereof.

CHAP. 57.—An ACT to establish an insurance company against fire on goods and furniture.

(Passed December 3, 1795.)

Preamble.

Whereas merchants and private families often are ruined by the ravages of fire, it is therefore advised expedient that a mode should be adopted, to alleviate their misfortunes, and William Frederick Ast having suggested and submitted to the consideration of the general assembly, a plan of insurance against fire on goods and furniture in this state, which it is conceived will answer the above purpose:

Insurance company against fire established, &c.

Subscriptions to be opened and notice thereof given, &c.

1. *Be it therefore enacted*, That an insurance be established, to be called and known by the name of "The Mutual Insurance company against fire on goods and furniture in the state of Virginia," and that for that purpose subscriptions shall be opened, and that so soon as to the amount of three hundred thousand dollars in property or more are subscribed for, notice shall be given in the Virginia ga-



zettes and a day fixed upon for the subscribers to meet, either in person or by deputy in the city of Richmond to examine the plan which William Frederick Ast has suggested, and then finally agree upon such rules and regulations as the majority of them present shall find best, and signed by twelve of them chosen for that purpose, which shall then be binding on all those who shall insure their property in the said mutual insurance company, and they shall then proceed and elect, by a majority of votes of the subscribers present, their agents for the management of the business of the said company, and thenceforth they shall be considered a body politic incorporated by this act, under the denomination aforesaid, and by that name shall have succession and may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in any court of law or equity in this commonwealth or elsewhere, and may buy or sell, and do and execute every other matter and thing relative to the said company; but none of the subscribers nor their agents shall be sued individually for any thing that relates to this insurance company in general: in case of law suits or any other business, application shall be made to the agents, and they shall appear and act, for and in behalf of this company. The company shall be at liberty to make from time to time such alterations and amendments in the regulations as the majority of them find necessary.

Subscribers when met to examine plan, establish rules, and elect officers, &c. &c.

Incorporated.

2. To raise a fund to pay the sufferers, they shall agree upon certain premiums to be paid, by the persons who shall have their property insured, at the time of such insurance.

Premiums to be defined.

3. In order that the money may not lay idle, they shall be at liberty to employ the funds to produce interest, according as they, or a majority of the subscribers present (convened for that purpose by one month's previous notice in the Virginia gazettes) shall agree upon: *Provided always*, That they shall not do any act contrary to the laws of this state.

The funds of this society may be employed so as to produce interest.

4. And they shall be obliged to pay the sufferers for the losses or damages by fire, on the property which they insured in said insurance company, according to the terms they shall agree upon, after regular proof that the loss actually happened by fire; but if it can be proven that the owner of the property insured, did cause the loss or damage wilfully, with a view of fraud directly or indirectly, in that case, he, she, or they shall not be paid, but prosecuted according to law; and if the insured have been already paid, he, she or they shall be compelled to return what has been paid to him, her or them with interest.

Insured to be compensated for losses according to sum insured.

5. *Be it further enacted*, That if the funds of the premiums paid on entering, should not be sufficient, a repartition among the whole of the members of this mutual insurance company, that is, among those who have insured their property to be mutually concerned, shall be made, and each shall pay on demand of the cashier, his, her or their quota, according to the sum insured and the rate of hazard at which the building wherein the goods or furniture insured are, or the goods themselves stand agreeable to the rate of the premiums.

Repartition in case of deficiency to be made among subscribers.

6. These quotas shall always be so rated, as to raise and keep up a fund, so that the interest thereof may be deemed by the president and directors (to be elected by the said company) sufficient to pay the annual losses and expenses. But no farther payment shall be

Quotas to be so rated as that the interest thereon will pay annual losses.





made, unless the funds are reduced so as to be less than one *per centum* of the whole amount insured, unless a majority of them should agree otherwise. When such quotas are found necessary, the president is to publish in the public newspapers, how much the quota is of each rate of hazard *per* every hundred dollars, whereupon the insured shall pay the same immediately to the cashier in whose office the property is insured.

Penalty for neglect to pay such quotas.

7. Whosoever any person or persons shall neglect to pay such quotas, the assurance to him made shall cease and discontinue from the day on which they became due, until paid; and the company aforesaid shall have the same remedy against delinquent members or persons, to compel them to pay the premiums, or those quotas, (if they should be found necessary, by the president and directors which they may elect) as the president, directors and company of the bank of Alexandria have against delinquent persons.

Company now or at any subsequent time to allow the author of this plan a certain sum annually.

8. And the company to be established as aforesaid, or any that may be established in this state on a similar principle of mutual insurance, shall for and in consideration of the forming, suggesting and publishing the above mentioned mutual insurance plan, pay or cause to be paid to the above said William Frederick Ast, annually, four cents for every hundred dollars that are or may be insured in such mutual insurance company or companies, that may be established in this state, to be paid him at the end of every three months, as the same become due, out of their funds; and for which if required by the insured, he is by himself or agent to perform faithfully the duty (which can reasonably be done by one person) of such office of the said company, as he may be appointed to by the same, and the emolument hereby allowed for this useful plan, shall not in any manner be diminished, during his honest and faithful behaviour.

Company authorized to insure for individuals.

9. As there may be persons who would not wish to join the mutual concern, this mutual insurance company shall be at liberty to insure the property of such persons on the terms and conditions as they may agree upon.

Commencement.

10. This act shall commence and be in force from and after the passing thereof.

#### CHAP. 53.—An ACT to incorporate the library society of the town of Petersburg.

(Passed December 25, 1795.)

Preamble.

Whereas it is represented to the general assembly, that several inhabitants of the town of Petersburg and its vicinity, have formed themselves into a society for the purpose of obtaining a library for their mutual benefit and improvement, and that they at present labour under considerable disadvantages from the want of a coercive jurisdiction over delinquent members; and it being at all times the desire of the legislature to promote such undertakings as tend to increase the knowledge of our citizens:

Society herein mentioned incorporated: Style of incorporation.

1. *Be it therefore enacted*, That the said library society of the town of Petersburg, are hereby incorporated for the purposes hereinafter mentioned, by the name of the Speculative society of the town of Petersburg.

Empowered to make rules, &c. necessary for ob-

2. The said society shall have full power and authority to establish all such rules and regulations among themselves for obtaining books, and the government of their members, as to them shall ap-



pear advisable, and to inflict such pecuniary penalties, not exceeding twenty dollars on delinquent members, as shall from time to time be approved of by a majority of the society. taining books, governing members, &c.

3. The officers of the said society shall be a president, vice president, treasurer and librarian. Officers of the society.

4. The treasurer whenever any member shall have failed to pay his annual contributions agreeably to the regulations of the society, shall obtain judgment and execution against the delinquent, for the benefit and use of the society, by motion in the hustings court of the town of Petersburg: *Provided*, The party against whom such motion shall be made, have ten days previous notice thereof. Acts to be performed by the treasurer in case of delinquencies in payment of monies due.

5. The treasurer before he shall enter on the duties of his office, shall give bond with approved security, payable to the president of the said society for the time being and his successors, in the penalty of one thousand dollars, conditioned to be void, provided he shall well and faithfully collect all such monies as shall become due to the society, shall account for the same when he shall be thereto required, and shall diligently and to the utmost of his power, procure such books as the society shall deem proper to be purchased with the said monies; which bond may be prosecuted as often as he shall be guilty of any of the above delinquencies. Treasurer to enter into bond with security conditioned for the performance of, as herein.

6. The librarian shall be responsible for the safe custody of all books while in his possession, and shall forfeit and pay the value of any book by him injured, lost or destroyed, or the value of the edition of which such book constituted a part, (as the case may be) which value shall be recovered by motion in the name of the treasurer, to be made in the hustings court of the town of Petersburg: *Provided*, The sum exceeds five dollars, and such librarian have ten days previous notice thereof. Librarian responsible for books committed to his charge. Proviso.

7. All penalties imposed by the said society on delinquent members for the value of books by them injured, lost or destroyed, or for breach of the regulations of the said society, shall be in like manner recoverable in the hustings court of the town of Petersburg, by motion in the name of the treasurer: *Provided*, The sum exceeds five dollars, and the party against whom the motion shall be made, have ten days previous notice thereof. And all sums under five dollars, recoverable of the librarian and members of the society aforesaid, shall be recovered by warrant before a magistrate. Penalties imposed by this act, how recoverable.

8. This act shall be in force from the passage thereof.

Commencement.

CHAP. 59.—An ACT for placing Mary Cornhill on the list of pensioners.

(Passed December 23, 1795.)

1. *Be it enacted by the general assembly*, That Mary Cornhill, widow of John Cornhill, who served as a private in the American army, in the course of the late war, and died while in such service, shall be placed on the list of pensioners, and be allowed the sum of forty dollars yearly. Mary Cornhill become a pensioner—her pension.

2. *And be it further enacted*, That the auditor of public accounts, on application to him made in person, or by attorney, shall be, and he is hereby authorized and directed to issue to the said Mary Cornhill, a warrant on the treasurer, for the sum of forty dollars by way of immediate relief, which warrant so issued shall be paid by the treasurer in like manner with other pension warrants. Sum granted for her immediate relief.

3. This act shall commence and be in force from and after the passing thereof. Commencement.





## CHAP. 60.—An ACT for refunding to John Bott and others certain sums of money.

(Passed December 23, 1795.)

Auditor to issue a warrant for the repayment of money to John Bott.

1. *Be it enacted by the general assembly*, That the treasurer of this commonwealth shall, upon warrant from the auditor of public accounts, refund and pay to John Bott, late sheriff of the county of Chesterfield, two hundred and fifty-six dollars and sixty-six cents, being the amount of the damages upon a judgment obtained by the commonwealth, for the arrears of the revenue tax due from the said county for the year one thousand seven hundred and ninety-one, which hath been paid by the said Bott into the public treasury.

Also to George Guy.

2. *And be it also enacted*, That one hundred and fourteen dollars and fifty cents, the amount of the damages paid by George Guy, late sheriff of the county of Caroline, on a judgment obtained against him, for the revenue tax of the year one thousand seven hundred and ninety, shall in like manner be refunded him.

Also to John Buck.

3. *And be it also enacted*, That the auditor of public accounts be directed to issue to John Buck, late sheriff of Shenandoah county, a warrant on the treasurer for one hundred and eighty-seven dollars and sixty-eight cents, being the amount of damages paid by him into the treasury, on a judgment obtained against him on behalf of the commonwealth, for the arrears of taxes due from the said county, for the year one thousand seven hundred and eighty-eight.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

## CHAP. 61.—An ACT for conveying to Achilles Helm certain lands therein mentioned.

(Passed December 10, 1795.)

Preamble.

Whereas it is represented, that a certain Leonard Helm, now deceased, in his lifetime, in right of his command as an officer in the Illinois regiment, became entitled to a share of three thousand acres of land in the Illinois grant, and another share of two hundred and thirty-four acres in the surplus lands belonging to the said regiment; that surveys for the said lands were in his lifetime regularly made and returned, but that before a conveyance was made for the same by the commissioners appointed by law for that purpose, the said Leonard Helm departed this life, leaving an infant son by the name of Achilles Helm, who on his arrival to the age of twenty-one years, applied for the grant descending to him from his father, but the time allowed by law to the commissioners appointed to execute deeds for such claims having expired, his application was rejected; and it is just that a sufficient and complete title should be made to the said Achilles Helm, in the lands which have descended to him as aforesaid:

Certain commissioners heretofore appointed by law to convey certain lands herein mentioned to Achilles Helm.

1. *Be it therefore enacted by the general assembly*, That the commissioners appointed by an act passed in the year one thousand seven hundred and eighty-three, intituled, "*An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant*," for the purpose of settling and determining claims to land in the Illinois grant aforesaid, or the survivors of them, or a major part of the survivors, be, and are hereby authorized and empowered to execute to the said Achilles Helm, a good and sufficient deed in fee for the lands claimed by



him as aforesaid, in right of his deceased father: Any thing in any law to the contrary notwithstanding.

2. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 62.—An ACT for paying William Ward a sum of money.

(Passed December 8, 1795.)

1. *Be it enacted by the general assembly*, That the treasurer of this commonwealth shall, upon warrant from the auditor of public accounts, to be issued for that purpose, pay to William Ward, late sheriff of the county of Pittsylvania, the sum of thirty-two dollars and twelve cents, being so much paid by him into the treasury, in part of the damages on a judgment for the revenue tax, due in the year one thousand seven hundred and ninety-two.

2. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 63.—An ACT for continuing to John Hoomes and others the exclusive privilege of carrying persons in stage carriages to and from certain places for a limited time.

(Passed December 18, 1795.)

1. *Be it enacted by the general assembly*, That the exclusive privilege granted by law to John Hoomes, Richard Townes and John Woolfolk, of conveying persons in stage carriages between certain places for a limited time, which will shortly expire, shall continue, and be extended, from the expiration thereof, for and during the term of three years thence next following.

2. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 64.—An ACT for further suspending the proceedings on a certain forthcoming bond entered into by Cecelia Anderson, administratrix of William Anderson, deceased.

(Passed December 16, 1795.)

1. *Be it enacted by the general assembly*, That all further proceedings on a bond entered into by Cecelia Anderson, as administratrix of William Anderson, deceased, by virtue of an act of assembly, passed in the year one thousand seven hundred and ninety-two, intituled, "*An act for suspending certain executions*," for the forthcoming of certain property belonging to the estate of her late husband, taken to discharge the arrears of taxes due from him as sheriff of the county of Hanover, for the years one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety, shall be, and are hereby suspended for the term of two years from the twenty-fourth day of December, one thousand seven hundred and ninety-five.

2. This act shall commence and be in force from and after the said twenty-fourth day of December, one thousand seven hundred and ninety-five.

CHAP. 65.—An ACT concerning the representatives of John Mecom, deceased.

(Passed December 23, 1795.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts on application to him made in person or by attorney, shall be, and he is hereby authorized and directed, to issue





named, and a warrant or warrants for interest thereon.

to Thomas Mecom, John Mecom, James Mecom, Nathan Marks, and Silky his wife, John Kirby, Matthew Mecom, and Elizabeth Mecom, orphans of Samuel Mecom, and legal representatives of John Mecom, deceased, a certificate for the sum of one hundred nine pounds seven shillings, being the value in specie, of four thousand five hundred ninety-four pounds ten shillings paid in paper currency in the month of January, one thousand seven hundred eighty, by the escheator of Southampton county to John S. Wills, one of the public commissaries, out of the proceeds of the sale of the estate of the said John Mecom last above mentioned, who was condemned and executed for murder, before the passage of an act of the general assembly, which vested his estate in his said representatives, together with a warrant or warrants for the interest thereon.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 66.—An ACT concerning Joseph Biggs and Alexander Clagg.

(Passed December 19, 1795.)

Auditor to issue a warrant on the treasury to Joseph Biggs.

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall be, and he is hereby authorized and required, on application to him made in person or by attorney, to issue to Joseph Biggs, a certificate for the sum of fifty dollars, for a mare by him lost in an expedition against the Indians, in the year one thousand seven hundred and ninety-three.

Also to issue a warrant to Alexander Clagg.

2. *And be it further enacted*, That the auditor shall also, upon like application to him made, issue to Alexander Clagg, a certificate for the sum of twenty dollars, for a rifle gun, by him lost, in an expedition against the Indians, in the year one thousand seven hundred and ninety-two.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 67.—An ACT for paying certain sums of money to William Leftwich and Robert Lathram and Robert Slaughter.

[Passed December 8, 1795.]

Auditor to issue warrants to certain persons herein named.

1. *Be it enacted by the general assembly*, That the treasurer of this commonwealth shall, and he is hereby required, upon warrants from the auditor of public accounts, by him to be issued for that purpose, to pay to William Leftwich, junior, a deputy under Henry Buford, late sheriff of the county of Bedford, the sum of fifty-two dollars and twenty-seven cents, being so much paid by him into the treasury, as a fine imposed for not returning an execution issued in behalf of the commonwealth: And also to pay to Robert Lathram and Robert Slaughter, deputies under James Pendleton, late sheriff of the county of Culpeper, the sum of sixty-one pounds, two shillings and ten pence, for the like sum paid by them into the treasury, in part of the damages on a judgment, for the taxes due in the year one thousand seven hundred and eighty-nine.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.



CHAP. 68.—An ACT directing the auditor of public accounts to issue a certificate to Thomas Hurst.

(Passed December 10, 1795.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts be, and is hereby directed to issue to Thomas Hurst, a certificate for the amount of a military certificate, issued in the name of William Allen, the twenty-seventh day of April, one thousand seven hundred and eighty-two, for the sum of thirty-six pounds, and a warrant for the interest due thereon, which certificate was received by the said Hurst, as a former deputy sheriff of the county of Northumberland, for so much of the taxes due from the said county, and being presented for payment of interest, was by the said auditor detained under an act of assembly, passed in the year one thousand seven hundred and eighty-six, as an original certificate, of which a duplicate had been issued to Benjamin B. Faucette, Abraham Bird and Jacob Rinker.

Auditor to issue a duplicate of a certificate herein described.

2. This act shall commence and be in force from the passing thereof. Commencement.

CHAP. 69.—An ACT allowing Thomas Walke a further time to complete the collection of certain taxes therein mentioned.

[Passed December 15, 1795.]

Whereas it is represented that in consequence of the death of the deputy of Thomas Walke, who was sheriff of the county of Princess Anne, and collector of the taxes due therein for the years one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety, the said taxes could not be collected within the time allowed by law for that purpose, but that the amount thereof has notwithstanding been paid into the public treasury by the said Walke; and it is just for his indemnification that a further time should be extended to him to complete the said collection:

Preamble.

1. *Be it therefore enacted by the general assembly*, That the said Thomas Walke be, and hereby is allowed until the first day of October, in the year one thousand seven hundred and ninety-seven, to collect the taxes due in the said county for the years one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety; any law to the contrary notwithstanding.

Thomas Walke allowed a further time to complete collection of certain taxes.

2. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 70.—An ACT concerning Thomas Mathews.

(Passed December 15, 1795.)

1. *Be it enacted by the general assembly*, That the auditor of public accounts, on application to him made in person or by attorney, shall be, and he is hereby authorized and directed, to issue to Thomas Mathews, in like manner as certificates have heretofore issued, for property destroyed in the town of Norfolk, a certificate for the sum of three thousand three hundred thirty-three dollars and thirty-three cents, the value of sundry articles of personal property of the said Thomas Mathews, destroyed by the American troops in the burning of the said town.

Auditor to issue a certificate to Thomas Mathews, for property destroyed in the borough of Norfolk.

2. This act shall commence and be in force from and after the passing thereof. Commencement.





CHAP. 71.—An ACT for paying a sum of money to the executors of William Sydnor deceased.

(Passed December 14, 1795.)

Preamble.

Whereas it has been represented to the present general assembly, by George and Moore Sydnor, executors of William Sydnor, deceased, that their testator having acted as inspector of tobacco at Deep creek warehouse, in the county of Lancaster, from the first day October, one thousand seven hundred and ninety-two, until the eighth day of February, one thousand seven hundred and ninety-four, and in the course of that time, having received into the said warehouse, and inspected a sufficient quantity of tobacco to discharge the whole amount of salary due him for the said term of service, had all such tobacco been shipped in his lifetime, but a small part thereof having been so shipped before such event which happened on the said last mentioned day, he the said William, was thereby prevented from receiving more than a small part of such salary :

Executors of William Sydnor, to be paid a balance due their testator for services as an inspector of tobacco.

1. And whereas it is judged reasonable that the balance thereof shall be paid by the public, to his representatives: *Be it enacted by the general assembly*, That the sum of one hundred and eight dollars, seventeen cents, shall be paid to George and Moore Sydnor, executors of William Sydnor, deceased, for the balance of a salary due the said William, as inspector at Deep creek warehouse, in the county of Lancaster, by the treasurer of this commonwealth, upon a warrant from the auditor of public accounts, out of the surplus of the fund arising from duties on tobacco exported.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

CHAP. 72.—An ACT for placing William Tucker on the list of pensioners.

(Passed December 4, 1795.)

William Tucker become a pensioner—his pension.

1. *Be it enacted by the general assembly*, That William Tucker, who served as a private in the state garrison regiment, in the course of the late war, and while in such service received a wound in his leg, which has disabled him from gaining a support by labour, shall be placed on the list of pensioners, and be allowed the sum of forty dollars per year.

Sum granted for his immediate relief.

2. *And be it further enacted*, That the auditor of public accounts, on application to him made, either in person or by attorney, shall issue to such applicant, a warrant for the sum of fifty dollars for the said William Tucker's immediate relief; which warrant so issued shall be dischargeable in like manner with other pension warrants.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

CHAP. 73.—An ACT appointing agents for the sale of certain lands therein mentioned, and for other purposes.

(Passed December 4, 1795.)

Preamble.

Whereas it is represented to the present general assembly, that the representatives of Jost Hite, Robert Green, William Duff and Robert M'Kay, have obtained a decree for twenty-seven surveys of land, lying in the counties of Berkeley, Frederick and Shenandoah, against the representatives of the late Thomas lord Fairfax, deceased, and others; and that it is impracticable to divide the same beneficially among the claimants, as well from their numbers, and



the lands being in small surveys, which would be rendered of little or no value, should they be divided, and in some cases having no timber on the greater part of a survey, as also from the infancy of some of the persons entitled, and the remote situation of others; and application hath been made by the representatives, guardians and agents of the claimants, that a law may pass authorizing certain agents and commissioners to sell and convey the same to such person or persons as have or may become purchasers thereof:

1. *Be it therefore enacted*, That James Williams and Jonathan Clarke, gentlemen, be, and they are hereby appointed agents, with full power to sell and dispose of the lands aforesaid, as also to collect and receive the money arising from such sales, and upon the receipt thereof to pay the same to the persons respectively entitled thereto, except as to so much as shall or may be due to the representatives of Robert M'Kay, deceased: *Provided nevertheless*, That the agents aforesaid, if required by the parties concerned, shall, previous to their entering on the duties required by this act, enter into bonds with sufficient securities, for the due execution thereof.

Persons appointed to dispose of the land herein mentioned.

Proviso.

2. *And be it further enacted*, That the aforesaid Jonathan Clarke, William C. Williams, Philip Williams, James Green the elder, and Andrew M'Kay, gentlemen, or any three of them be, and they are hereby appointed commissioners for the purpose of making conveyances to the purchaser or purchasers of the lands which have been or shall be sold by the agents aforesaid, upon instructions from the said agents, notifying them of such sales.

Conveyances to purchasers, by whom to be made.

3. *And be it further enacted*, That the said Andrew M'Kay be, and he is hereby appointed trustee, with full power and authority to receive of the agents aforesaid, for the benefit of the representatives of Robert M'Kay the elder, deceased, such sum or sums of money as they may be entitled to by virtue of the sales to be made as aforesaid, on the final settlement of the accounts relative thereto; or in case of the refusal of the said Andrew M'Kay to act as trustee as aforesaid, then and in that case it shall be lawful for the agents aforesaid, to pay the money which may become due to the representatives of the said Robert M'Kay the elder, deceased, to such person as may be legally authorized to receive the same: *Provided however*, That the said Andrew M'Kay, or such other person shall previous thereto enter into bond with sufficient security, in the penalty of thirty thousand dollars, conditioned that he will duly and faithfully pay the money which may come into his hands by virtue of this act, to the representatives of the said Robert M'Kay the elder, deceased.

Andrew M'Kay appointed trustee of the representatives of Robert M'Kay, deceased.

Proviso.

4. *And be it further enacted*, That the bonds directed by this act to be given, shall be taken by the justices of the county in which the obligors shall reside, and made payable to the said justices and their successors, and shall not become void upon the first recovery, but may be put in suit, and prosecuted from time to time by and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon.

Bonds herein directed, by and to whom to be taken and made payable.

5. This act shall commence and be in force from and after the passing thereof.

Commencement.





## CHAP. 74.—An ACT for placing Michael Jordan on the list of pensioners.

(Passed December 12, 1795.)

Michael Jordan  
became a pen-  
sioner—his pen-  
sion.

1. *Be it enacted by the general assembly*, That Michael Jordan, who served during the late war with Great Britain, in the American army, and in the course thereof received a wound in his thigh, in the battle at Eutaw, which has disabled him from gaining a support by labour, shall be placed on the list of pensioners, and be allowed the sum of forty dollars per year.

Sum granted for  
his immediate re-  
lief.

2. *And be it further enacted*, That the auditor of public accounts, on application to him made, either in person or by attorney, shall issue to the said Michael Jordan a warrant for the sum of fifty dollars, for his immediate relief; which warrant so issued shall be dischargeable in like manner with other pension warrants.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

## CHAP. 75.—An ACT for issuing a duplicate of a military certificate to Thomas Bedford.

(Passed December 9, 1795.)

Auditor to issue a  
duplicate of a lost  
certificate for  
amount herein  
mentioned.

1. *Be it enacted by the general assembly*, That the auditor of public accounts shall, and he is hereby authorized and required, on application to him made, to issue to Thomas Bedford, a duplicate of a military certificate, in the name of Malcom Johnston, for fifty-eight pounds eight shillings and five pence, dated the twenty-seventh day of April, one thousand seven hundred and eighty-four, in lieu of the original, which the said Thomas Bedford hath lost: *Provided always*, That the said Thomas Bedford shall, previous to his obtaining the said duplicate, enter into bond with sufficient security, to be approved of by the executive, to indemnify the commonwealth, and the United States.

Proviso.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

## CHAP. 76.—An ACT concerning John Thomas.

[Passed December 17, 1795.]

Auditor to issue a  
warrant to John  
Thomas for the  
sum herein men-  
tioned.

1. *Be it enacted by the general assembly*, That the auditor of public accounts, on application to him made, in person or by attorney, shall be, and he is hereby authorized and required to issue to John Thomas, a warrant on the treasurer for the sum of thirty dollars and thirty-three cents, being the amount of seven years interest upon the sum of twenty-six pounds, by the said John Thomas paid into the treasury, and afterwards refunded to him by act of assembly, passed in the year one thousand seven hundred and ninety-one; which warrant so issued shall be discharged by the treasurer out of the aggregate fund.

Commencement.

2. This act shall commence and be in force from and after the passing thereof.

## CHAP. 77.—An ACT to incorporate trustees to an academy in the vicinity of New London.

(Passed December 1, 1795.)

Trustees incor-  
porated—their pow-  
ers.

1. *Be it enacted by the general assembly*, That the following gentlemen, to wit: James Penn, James Calloway, James Steptoe, William Leftwich, David Saunders, Arthur Moseley, William Henderson, William Calloway, James Clarke, Thomas Clarke, John Watts,



Nathan Reid, and Thomas Holt, are hereby constituted and appointed a body politic and corporate, to have perpetual continuance, by the name of trustees of the New London academy, and by that name may sue and be sued, and may and shall have, and use a common seal, and are enabled to take and hold any estate real or personal, which may have been or hereafter shall be given or bought for the use of the said academy.

2. Any seven of the aforesaid trustees shall be a sufficient number to constitute a board, and may and shall have power to appoint a president and tutors, a secretary and treasurer, and to enact such by-laws as may conduce to the benefit of the said academy, so as not to contravene any of the laws of this commonwealth.

What number shall constitute a board.

3. In case of the death or removal to the distance of forty miles from the said academy, resignation, or other legal disability of any of the aforesaid trustees, a majority of the remainder may have power to appoint other or others in his or their stead.

How vacancies in their number may be supplied.

4. The trustees aforesaid may and shall have power to receive subscriptions to the use of the said academy, and to enforce payment by suit, in case any should refuse to comply with their said subscriptions.

Authorized to receive subscriptions for the academy and enforce payment thereof.

5. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 78.—An ACT giving further time to the purchasers of lots, in the towns of Centerville and Lewisburg, to build thereon.

(Passed December 23, 1795.)

Whereas the purchasers of lots in the town of Centerville, and county of Loudoun, and of the town of Lewisburg, in the county of Greenbrier, have not been able to build on their lots within the time prescribed by law:

Preamble.

1. *Be it therefore enacted*, That the further time of five years, from the passing of this act, shall be allowed the purchasers of lots in the said towns respectively, to build thereon, and save the same; any law to the contrary thereof notwithstanding.

Further time allowed purchasers of lots in Centerville and Lewisburg to build thereon.

2. This act shall commence and be in force from and after the passing thereof.

Commencement.

CHAP. 79.—An ACT concerning the town of Leesburg, in the county of Loudoun.

(Passed December 4, 1795.)

1. *Be it enacted by the general assembly*, That it shall be lawful for the freeholders, house-keepers, and free male persons above the age of twenty-one years, who shall have been resident in the town of Leesburg, and county of Loudoun, one year next preceding the election, to meet in some convenient place in the said town, annually, on the first Monday in April next, and then and there elect seven fit and able men, being freeholders and inhabitants of the said town, to serve as trustees thereof, and the persons so elected, shall proceed to choose, out of their own body, a president, whose powers shall continue until the first Monday in April, in the succeeding year, and no longer, unless re-elected.

Inhabitants of Leesburg to meet annually and elect trustees.

2. Every trustee, before he enters upon the execution of the duties required by this act, shall take an oath, or affirm, before a justice of the peace for the said county, that he will faithfully and im-

Trustees to take an oath.





partially, to the best of his skill and judgment, execute his office according to the directions of this act.

Their powers.

3. The trustees of the said town of Leesburg, or a majority of them, shall have power to keep the streets in the said town in repair, to have the footways in the principal streets posted and paved at the expense of the owners of lots or parts of lots fronting on the said streets, in case the owners shall refuse or neglect to post and pave the same; to remove nuisances out of the streets, alleys and public grounds of the said town, at the expense of those who occasion them; to open the streets and alleys of the said town, agreeably to the original plan; to determine all disputes concerning the bounds of lots, which shall be final, unless controverted at law within five years after such determination; to levy a tax, not exceeding twenty-five cents, on each tithable, and seventy-five cents on each one hundred pounds value of taxable property, annually, within the said town, to be applied for the purposes of this act; to appoint a clerk and collector, which collector shall be subject to the like rules, have the same power, liable to the same penalties and forfeitures, and recoverable in like manner, as are prescribed by law for the collection of county levies.

To meet monthly and form rules and by-laws.

4. The said trustees, or a majority of them, shall assemble at least once in every month, and when assembled, shall have power to form and establish such rules and by-laws as they may think expedient and proper, for the good government of the said town: to which rules and by-laws, the president of the said trustees shall fix his signature, and be entered in a book to be kept for that purpose, which shall at all times be open for inspection: *Provided always*, That such by-laws shall not be contrary to the laws and constitution of this commonwealth.

Proviso.

Their duties.

5. It shall be the duty of the said trustees, at the expiration of the term for which they were elected, to render to the succeeding trustees a just and true account of their receipts and disbursements, by virtue of this act, and shall pay the balance, if any be due thereon, to the order of the trustees, unless it shall be otherwise appropriated.

Repealing clause.

6. So much of any act as comes within the meaning of this, is hereby repealed.

Commencement.

7. This act shall commence and be in force from and after the passing thereof.

CHAP. 80.—An ACT to establish a town on the land of Ebenezer Zane, in the county of Ohio.

[Passed December 25, 1795.]

Town established on the land of Ebenezer Zane in Ohio.

Trustees thereof.

1. *Be it enacted by the general assembly*, That the land late the property of Ebenezer Zane, as the same is already laid off into lots and streets, in the county of Ohio, and on Ohio river, shall be established, a town by the name of Wheeling, and that John McIntyer, Andrew Woods, Henry Smith, Archibald Woods, James Nelson, Robert Woods, Absalom Martin and William Waddle, gentlemen, shall be, and they are hereby constituted trustees thereof.

Powers of trustees.

2. The trustees of the said town, or a majority of them, are hereby empowered to settle and determine all disputes concerning the bounds of the said lots.

Rights of purchasers.

3. So soon as the purchasers of lots in the said town shall have built thereon according to the conditions of their respective deeds



of conveyance, such purchasers shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

4. In case of the death, resignation, or removal out of the county of one or more of the trustees of the said town, the vacancy thereby occasioned shall be supplied by the remaining trustees, and the person or persons so elected shall have the same power and authority as if he or they had been particularly named in this act. Vacancies in trustees, how to be supplied.

5. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 81.—AN ACT establishing a town at the mouth of Ballinger's creek, in the county of Albemarle.

[Passed December 29, 1795.]

1. *Be it enacted by the general assembly*, That thirty acres of land, the property of Wilson Cary Nicholas, lying at the mouth of Ballinger's creek, in the county of Albemarle, as already laid off into lots and streets; shall be established a town by the name of Warren, and that John Coles, Samuel Shelton, John Harris, Nathaniel Anderson, Thomas Anderson, Benjamin Harris and Samuel Dyer, gentlemen, be constituted trustees thereof. Town established on the lands of Wilson Cary Nicholas, in Albemarle. Trustees thereof.

2. So soon as the purchasers of lots in the said town shall have built thereon, they shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. Privileges of purchasers of lots.

3. The said trustees, or a majority of them, shall have the like power and authority as the trustees of any other unincorporated town in this state: And in case of the death, resignation or removal out of the county of any one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them; and the trustees so chosen shall have the same power and authority as if they had been appointed and named in this act. Powers of trustees. Vacancies in trustees, how supplied.

4. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 82.—AN ACT to establish a town on the land of Alexander Le Grand, in the county of Prince Edward.

(Passed December 14, 1795.)

1. *Be it enacted by the general assembly*, That twenty-five acres of land, the property of Alexander Le Grand, in the county of Prince Edward, shall be, and they are hereby vested in John Purnall, James Morton, James Allen, Josiah Le Grand, Baker Le Grand, Samuel Carter, Charles Allen, sen. and Ryland Randolph, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Germantown. Town established on the land of Alexander Le Grand, in Prince Edward. Trustees thereof.

2. So soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the lots at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for two months in the Virginia gazette, and convey the said lots to the purchasers, subject to the condition of building on each a dwelling house, six- Lots when and how to be sold.





teen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and pay the money arising from such sales to the said Alexander Le Grand, or his legal representative.

Powers of trustees.

3. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the lots, and to make such rules and regulations for the building of houses thereon, as to them shall seem most proper.

Of purchasers.

4. The purchasers of lots when they shall have built thereon according to the conditions of their deeds, shall have the same rights, privileges and immunities, which the freeholders of other towns in this state, not incorporated, hold and enjoy.

Lots forfeited if not built on.

5. If the purchaser of any lot shall fail to build thereon according to the condition of his deed, the said trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom for the benefit of the said town.

Vacancies in trustees, how to be supplied.

6. In case of the death, resignation, removal out of the county or other disability of any of the said trustees, it shall be lawful for the others or a majority of them, to supply such vacancy; and the persons so elected, shall have the same powers, as if they had been named in this act.

Commencement.

7. This act shall commence and be in force from and after the passing thereof.

CHAP. 83.—An ACT to repeal and amend an act, intituled, "An act to establish several towns."

(Passed December 10, 1795.)

Town established on the lands of John Lemayeur, in Botetourt. Trustees thereof.

1. *Be it enacted by the general assembly*, That thirty acres of land on the south side of Dunlap's creek, in the county of Botetourt, the property of John Lemayeur, shall be, and they are hereby vested in James Brown, William Greenwood, William Albert, Samuel Sayeur and David Kean, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Brookville. That so soon as the said lots shall be laid off, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, having previously advertised the time and place two months in the Virginia gazette, and shall convey the said lots to the purchasers, subject to the condition of building on each a dwelling house, sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and pay the money arising from such sales to the proprietor thereof or his representatives.

Lots, when and how to be sold.

Penalty on purchasers failing to build, &c.

2. And if the purchaser of any lot or lots in the town aforesaid, shall fail to build thereon within the time herein before limited for that purpose, the trustees, or a majority of them, may thereupon enter into such lot or lots, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Powers of trustees.

3. The trustees of the said town, or a majority of them, may make such rules for the regular building of houses therein, as to them shall seem best, and may settle and determine all disputes about the bounds of the said lots.

Right of purchasers.

4. So soon as the purchasers of lots in the said town shall have built thereon a dwelling house sixteen feet square, with a brick or



stone chimney, and shall reside therein, such purchasers shall then be entitled to, and have and enjoy, all the rights, privileges and immunities, which the freeholders and inhabitants of other towns within this state, not incorporated, hold and enjoy.

5. In case of the resignation, death or removal out of the county, of one or more of the trustees, the vacancy thereby occasioned, shall be supplied by the remaining trustees, and the person or persons so elected, shall have the same power and authority as if he or they had been particularly named in this act. Vacancies in trustees, how supplied.

6. So much of the act, intituled, "*An act to establish several towns*," as relates to the town of Fontville, in the said county of Botetourt, is hereby repealed. Repealing clause.

7. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 84.—An ACT concerning the town of Woodstock, in the county of Shenandoah.

(Passed December 2, 1795.)

1. *Be it enacted by the general assembly*, That it shall be lawful for the freeholders, housekeepers and free male persons above the age of twenty-one years, who shall have been resident in the town of Woodstock, and county of Shenandoah, one year next preceding the election, to meet in some convenient place in the said town, annually, on the first Monday in April, and then and there elect seven fit and able men, being freeholders and inhabitants of the said town, to serve as trustees thereof, who shall continue in office until the first Monday in April in the succeeding year, and no longer unless re-elected. Inhabitants of Woodstock to elect trustees annually.

2. Every trustee before he enters upon the execution of the duties required by this act, shall take an oath, or affirm before a justice of the peace for the said county, that he will faithfully and impartially, to the best of his skill and judgment, perform his duty according to this act. Trustees to take an oath.

3. The trustees of the said town, or a majority of them, shall have power to erect or repair a market house in the said town, to appoint a clerk of the market, to establish an assize of bread, to remove nuisances and obstructions in the town or streets, to repair and keep in order the streets in the said town, and to impose taxes not exceeding one hundred and fifty dollars, annually, on the tithables and property real and personal within the town, for carrying into effect all or any of the powers hereby given them; to make provision and regulations for collecting and accounting for the taxes so imposed, by appointing a collector, and directing distress to be made for delinquencies, or by any other ways or means; and to make all such ordinances and regulations, not contrary to the laws and constitution of this commonwealth, as shall by them or a majority of them, be thought necessary for carrying this act into effect. Their powers.

4. The election of the said trustees, shall annually be conducted by the sheriff of the county, or a deputy sheriff, who shall make return of the persons elected, together with a fair copy of the poll by him taken, to that trustee who shall have the greater number of votes, which shall be recorded with their other proceedings, in books to be kept for that purpose, and to be open at all times for inspection. Sheriff of the county to conduct the election.





- Repealing clause. 5. So much of all and every act or acts as comes within the meaning of this act, is hereby repealed.
- Commencement. 6. This act shall commence and be in force from and after the passing thereof.

CHAP. 85.—An ACT to elect trustees of the town of Staunton, and to amend the law respecting the same.

(Passed December 24, 1795.)

Preamble.

Whereas by the act, intituled, "*An act to increase the number, and extend the powers of the trustees of the town of Staunton,*" it is among other things provided, "That the trustees of the said town shall be displaced on the first Tuesday in March, one thousand seven hundred and ninety-four, and on the same day in every third year thereafter, and the vacancies supplied by new elections on the same or next succeeding day, according to the rules and regulations prescribed therein:" And whereas it is represented, that the freeholders and inhabitants of the said town failed to make an election of trustees in March, one thousand seven hundred and ninety-four, as aforesaid, and no election could legally be made thereafter: For remedy whereof,

Inhabitants of Staunton to elect trustees triennially.

1. *Be it therefore enacted*, That it shall and may be lawful for the freeholders, housekeepers, and free male inhabitants of the said town, qualified according to the said recited act, on the second Tuesday in February or March next, and on the same day in every third year thereafter, to elect and choose trustees of the said town, under such rules and regulations as are prescribed by the said act.

Their powers.

2. The trustees so to be elected, and their successors, or a majority of them, shall have the same power and authority, as if they had been elected pursuant to the said recited act; and before they proceed to the execution of their said office, shall severally take an oath or affirm in the court of the county of Augusta, "*That they will truly and faithfully execute and perform the duties of their office according to law, without favor or affection.*"

And oath.

Repealing clause.

3 So much of any act as comes within the meaning of this act, is hereby repealed.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 86.—An ACT to establish a town on the land of Joseph Spencer and Abner Lord, in the county of Harrison.

(Passed December 1, 1795.)

Town established on Spencer's and Lord's land in Harrison.

Trustees thereof.

1. *Be it enacted by the general assembly*, That one hundred acres of land, the property of Joseph Spencer and Abner Lord, lying on the east bank of the Ohio river, in the county of Harrison, shall be, and they are hereby vested in James Pewtherer, Thomas Lord, Eleazer West, Isaac Williams, Samuel Beamont, George Selden, Nehemiah Spencer, Samuel Halley and Asabel Griffing, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Vienna.

Lots to be sold, when and how.

2. So soon as the said one hundred acres of land shall be laid off into lots and streets, the said trustees, or a majority of them, shall sell the said lots at public auction, for the best price that can be had, the time and place of which sale shall be previously advertised for three several court days, at the courthouse of the said



county of Harrison, and convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within seven years from the day of sale, and pay the money arising from such sales to the said Joseph Spencer and Abner Lord, or their respective legal representatives.

3. The said trustees, or a majority of them, shall have power from time to time, to settle and determine all disputes concerning the bounds of the said lots, and to make such rules and regulations for the building of houses thereon, as they shall think proper. Powers of trustees.

4. When the purchasers of lots shall have built thereon, according to the conditions of their respective deeds of conveyance, they shall have and enjoy the same rights, privileges and immunities, which the freeholders of other towns in this state, not incorporated, hold and enjoy. Rights of purchasers.

5. In case of the death, removal out of the county, or other disability of any of the said trustees, the vacancy shall be supplied by the remaining trustees, or a majority of them, and the persons so chosen shall have the same powers as if they had been named in this act. How vacancies in trustees to be supplied.

6. If the purchaser of any lot shall fail to build thereon, according to the conditions of his deed, the trustees, or a majority of them, may thereupon enter into such lot, and sell the same again, and apply the money arising therefrom in any manner for the benefit of the said town. Penalty on purchaser failing to build.

7. This act shall commence and be in force from and after the passing thereof. Commencement.

CHAP. 87.—An ACT authorizing Nathaniel Ellicott and Isaac M'Pherson to build a toll bridge across the river Occaquan, at the place therein mentioned.

(Passed December 17, 1795.)

Whereas application hath been made to the present general assembly by Nathaniel Ellicott and Isaac M'Pherson, that an act may pass authorizing them to erect a toll bridge near their mill, across the river Occaquan, from their land in Prince William to the land of John Hooe on the opposite shore, in the county of Fairfax, who has consented to the same, which, if completed, will be of great advantage and utility to the public: Preamble.

1. *Be it therefore enacted*, That it shall be lawful for the said Nathaniel Ellicott and Isaac M'Pherson, their heirs or assigns, to erect or build a bridge across the river aforesaid, at or near the mill aforesaid. So soon as the said bridge shall be completed, it shall be lawful for the said Nathaniel Ellicott and Isaac M'Pherson, their heirs or assigns, to demand and receive, for each man crossing thereat, three cents, and for a horse the same; for every coach, waggon, chariot, and the driver, the same as for six horses; for every four wheeled chaise, phaeton and driver, the same as for four horses; for every two wheeled carriage, the same as for two horses; for every hogshead of tobacco, the same as for one horse; for every head of nett cattle, the same as for one horse; for every sheep, hog, goat or lamb, one fifth part of the ferriage for one horse. Privilege granted to persons herein named to build a toll bridge over Occaquan. Rates of pontage, &c.

2. *And be it further enacted*, That the said Nathaniel Ellicott and Isaac M'Pherson, their heirs or assigns, shall begin to erect the said bridge within two years, and complete the same within three years thereafter, and on failure, in either case, shall be deprived of Time wherein to commence and complete said bridge: Privilege forfeited in case of failure, &c.





the privileges hereby given; or if the said bridge, after it is erected, shall remain unfit for the passage of any thing, for the space of two years, the privilege aforesaid shall cease and be discontinued.

Bridge to be constructed as not to injure navigation.

3. The said bridge shall be so constructed, if necessary, that the navigation of the said river may not thereby be injured, obstructed or materially affected.

Penalty on keeper for demanding greater toll than hereby allowed.

4. If the keeper of the said toll bridge shall demand and take from any person a greater sum for the toll than is allowed by this act, such offender shall forfeit to the person so overcharged, the toll demanded and received, and two dollars for every such offence; recoverable before any justice of the peace of the county.

Commencement.

5. This act shall commence and be in force from and after the passing thereof.

CHAP. 88.—An ACT authorizing Thomas Mason to build a toll bridge across the river Occaquan.

(Passed December 17, 1795.)

Preamble.

Whereas application hath been made to the present general assembly by Thomas Mason, that an act may pass authorizing him to erect a toll bridge across the river Occaquan, from the town of Colchester to the opposite shore, in the county of Prince William, which, if completed, will be of great advantage and utility to the public:

Privilege granted to build a toll bridge over Occaquan, at place herein mentioned and rates for passing the same.

1. *Be it therefore enacted*, That it shall be lawful for the said Thomas Mason, his heirs or assigns, to erect or build a bridge across the river aforesaid, at the place where the ferry (of which the said Mason is proprietor) is by law established. So soon as the said bridge shall be completed, it shall be lawful for the said Thomas Mason, his heirs, and assigns, to demand and receive the same toll or rates for the passage of any person or thing, as is by law allowed at the ferry aforesaid.

Time within which to commence and complete said bridge—privilege lost in case of failure, &c.

2. *And be it further enacted*, That the said Thomas Mason, his heirs or assigns, shall begin to erect the said bridge within two years, and complete the same within three years thereafter, and on failure in either case shall be deprived of the privilege herein given; or if the said bridge after it is erected, shall remain unfit for the passage of any person or thing by the space of two years, the privilege aforesaid shall cease and be discontinued.

Bridge to be constructed so as not to injure navigation.

3. The said bridge shall be so constructed that the navigation of the said river may not thereby be injured, obstructed or materially affected.

Commencement.

4. This act shall commence and be in force from and after the passing thereof.

CHAP. 89.—An ACT to authorize Enoch Francis to erect a toll bridge over Goose creek, in the county of Loudoun.

(Passed December 26, 1795.)

Privilege of erecting a toll bridge over Goose creek granted Enoch Francis—rates for passing the same.

1. *Be it enacted by the general assembly*, That it shall and may be lawful for Enoch Francis to erect a bridge over Goose creek, as near as may be to the ferry heretofore established from his land across the same in the county of Loudoun, and for the said Enoch Francis, his heirs and assigns, to demand and receive the same toll and rates for the passage of any person or thing, as is allowed by law at the said ferry: *Provided*, That if the proprietor of the land on the opposite shore of the said creek, shall be unwilling to convey to the



said Enoch Francis as much ground as shall be necessary for an abutment to the said bridge, it shall and may be lawful for the said Francis in the mode prescribed by the act concerning mills, to have so much land as may be necessary for the purpose aforesaid, condemned by writ of *ad quod damnum*.

2. This act shall commence and be in force from and after the Commencement, passing thereof.

CHAP. 90.—An ACT to authorize the executive to advance money to William Hueston, and for other purposes.

(Passed December 21, 1795.)

1. *Be it enacted*, That the executive be authorized to supply the prisoners in Abingdon jail, in the district of Washington, Russell, Wythe and Lee, who were deprived of a trial at the last term in October, which should have been holden for said district, with clothes, blankets and a stove, and that the executive draw on the treasurer for any sum of money they find necessary for the purpose: And that they be authorized to advance to William Hueston, jailor of the district aforesaid, such sum of money as they may deem just and necessary for the support of the prisoners in the aforesaid jail, to be accounted for by the said William Hueston, on a settlement of his account as jailor.

Executive to supply certain prisoners with clothing, &c.

2. *And be it further enacted*, That the treasurer of this commonwealth shall, on warrant from the auditor of public accounts, refund and pay to Lawrence Baker, late sheriff of Isle of Wight county, the amount of the damages upon a judgment obtained by the commonwealth, against him, for arrears of tax due from the said county, for the year one thousand seven hundred and eighty-six, which, in consequence of such judgment, have been by him paid into the public treasury.

Sum of money refunded to Lawrence Baker.

3. This act to commence and be in force from and after the pass- Commencement, ing thereof.

CHAP. 91.—An ACT for paying the officers of the general assembly for their services during the present session.

(Passed December 23, 1795.)

1. *Be it enacted*, That the allowances to the officers of the general assembly for their services during the present session, shall be as followeth, that is to say: To the chaplain, twenty dollars *per week*; to the clerk of the house of delegates, one hundred and sixteen dollars and sixty-seven cents *per week*; to the clerk of the senate, fifty-eight dollars thirty-four cents *per week*; to the clerk of the several committees of propositions and grievances, and of privileges and elections, forty dollars *per week*; to the clerk of the several committees of religion, and claims, forty dollars *per week*; to the clerk of the committee for courts of justice, forty dollars *per week*; to the serjeants at arms to the senate and house of delegates, each thirty dollars *per week*; to each of the door keepers of the senate and house of delegates, seventeen dollars *per week*; to Thomas Nicolson for printing the journals of the senate, one hundred and seventeen dollars; and to the person who cleans the capitol, the sum of thirty-four dollars.

Salaries of the officers of the general assembly.

2. *And be it enacted*, That the executive shall, and they are hereby requested to employ some fit and proper person, to make out a fair manuscript journal of the proceedings of the house of





delegates, at their last session, to be deposited in the clerk's office; and allow such person therefor, such sum as in their opinion, he may be entitled to for that service.

Commencement.

3. This act shall commence and be in force from and after the passing thereof.

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## RESOLUTIONS.

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### IN THE HOUSE OF DELEGATES,

SATURDAY, December 19th, 1795.

Whereas the general assembly of this commonwealth did, on the 18th of November, in the year 1791, come to a resolution in the words following:

*Resolved unanimously*, That the amendment proposed by the third congress of the United States, at the first session, begun and held at the city of Philadelphia, in the state of Pennsylvania, on Monday the second day of December, one thousand seven hundred and ninety-three, to the constitution of the United States, in the words following, to wit: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against any one of the United States, by citizens of another state, or by citizens or subjects of any foreign state," be ratified by this commonwealth. And whereas the above recited amendment has not been published for the information of the good citizens of this state: It is hereby

*Resolved*, That the said amendment, as acceded to, be printed at the end of the laws, passed at the present session of general assembly.

*Resolved*, That the senators from this state in the congress of the United States, be, and they are hereby requested, to renew their endeavours to get the aforesaid resolution agreed to, so that it may become explanatory of the constitution of the United States.

December 22d, 1795—Agreed to by the senate.

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FRIDAY, November 20th, 1795.

*Resolved*, That the general assembly of Virginia do approve of the conduct of Henry Tazewell and Stephens Thompson Mason, esquires, senators from this state in the congress of the United States, in voting against the ratification of the treaty lately negotiated between the United States and Great Britain.

November 24th, 1795—Agreed to by the senate.



SATURDAY, November 21st, 1795.

*Resolved*, That the general assembly of Virginia entertain the highest sense of the integrity, patriotism and wisdom of the president of the United States, and that in approving the vote of the senators of this state in the congress of the United States, relative to the treaty with Great Britain, they in no wise mean to censure the motives which influenced him in his conduct thereupon.

November 24th, 1795—Agreed to by the senate.

TUESDAY, November 17th, 1795.

*Resolved*, That the petition of Alexander Spotswood, who, during the late war with Great Britain and America, was promoted to the rank of full colonel, praying to be allowed a bounty in lands, equal to that given to other officers of his rank, being six thousand acres, is reasonable.

November 25th, 1795—Agreed to by the senate.

SATURDAY, December 26th, 1795.

*Resolved*, That the petition of Howel Lewis is reasonable, and that the register of the land office be directed to issue to him, in consideration of the services of his deceased father, the late colonel Charles Lewis, a warrant for a quantity of land, equal to what has been granted to other colonels of the continental line, for military services during the late war; which warrant shall be considered as granted by this commonwealth, to and for the benefit of the representatives of the said colonel Charles Lewis, generally.

December 28th, 1795—Agreed to by the senate.

MONDAY, November 23d, 1795.

*Resolved*, That the petition of Joseph Strother, praying that the register of the land office may be directed to issue to him a duplicate of a land warrant for nine hundred acres, in lieu of that which was burnt, is reasonable.

December 2d, 1795—Agreed to by the senate.

MONDAY, December 21st, 1795.

*Resolved*, That the treasurer be authorized and directed to transfer two shares, belonging to the state of Virginia, in the James river company, to the governor of the commonwealth, for the time being, for the use of the commonwealth, and that it be a standing instruction to the treasurer, to vote at the election of officers of the said company, for the governor, for the time being, to be president of the said company.

December 22d, 1795—Agreed to by the senate.

SATURDAY, December 12th, 1795.

*Resolved*, That the executive be requested to examine the certificates in the sinking fund, and cause the same to be destroyed.

December 15th, 1795—Agreed to by the senate.

SATURDAY, December 5th, 1795.

*Resolved*, That the governor be requested to propose to the executive departments of the several states, the annual interchange of





the laws passed by the respective states, and to establish a regular system for such exchange, comprehending the existing code of laws in each state.

December 7th, 1795—Agreed to by the senate.

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SATURDAY, December 12th, 1795.

*Resolved*, That the senators representing this state in the congress of the United States be, and they are hereby instructed, and the representatives requested to unite their utmost exertions to obtain in their respective houses the following amendments to the constitution, viz:

1st. That no treaty containing any stipulation upon the subject of the powers vested in the congress by the eighth section of the first article, shall become the supreme law of the land, until it shall have been approved in those particulars by a majority of the house of representatives; and that the president before he shall ratify any such treaty, shall submit the same to the house of representatives.

2d. That a tribunal other than the senate be instituted for the trial of impeachments.

3d. That the senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for three years, and each senator have one vote; immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year, the second class at the expiration of the second year, and of the third class, at the expiration of the third year, so that one third may be chosen at the expiration of every year.

4th. That no person holding the office of a judge under the United States, shall be capable of holding at the same time any other office or appointment whatever.

December 15th, 1795—Agreed to by the senate.

---

FRIDAY, December 25th, 1795.

*Resolved*, That the executive of this state be directed to communicate with the governor of Kentucky on the subject of his letter respecting the encroachments on the territory of Kentucky complained of in the said letter, and that they notify to him the disposition of the general assembly to ascertain the boundary line between the two states on the most amicable terms, and should the state of Kentucky choose to appoint commissioners for that purpose, that then the executive be, and are hereby authorized to appoint commissioners agreeable to the act, "*For erecting the district of Kentucky into an independent state*," and to make to them adequate compensation for their services; which said commissioners shall have full power to demand the allowance of all necessary witnesses, the expense of whom shall be certified under the hand and seal of the said commissioners, and paid by order of the executive.

December 26th, 1795—Agreed to by the senate.

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TUESDAY, December 1st, 1795.

Whereas the migration of American youth to foreign countries for the completion of their education, exposes them to the danger of imbibing political prejudices disadvantageous to their own repub-



lican forms of government, and ought therefore to be rendered unnecessary, and avoided :

*Resolved*, That the plan contemplated of erecting an university at the federal city, where the youth of the several states may be assembled, and their course of education finished, deserves the countenance and support of each state.

And whereas when the general assembly presented sundry shares in the James river and Patowmac companies, to George Washington, as a small token of their gratitude for the great, eminent, and unrivalled services he had rendered to this commonwealth, to the United States, and to the world at large, in support of the principles of liberty and equal government, it was their wish and desire that he should appropriate them as he might think best : And whereas the present general assembly retain the same high sense of his virtues, wisdom and patriotism :

*Resolved therefore*, That the appropriation by the said George Washington of the aforesaid shares in the Patowmac company to the university intended to be erected in the federal city, is made in a manner most worthy of public regard and of the approbation of this commonwealth.

*Resolved also*, That he be requested to appropriate the aforesaid shares in the James river company, to a seminary at such place in the upper country as he may deem most convenient to a majority of the inhabitants thereof.

December 2d, 1795—Agreed to by the senate.





RICHMOND, July 30th, 1835.

I, GEORGE W. MUNFORD, keeper of the rolls of the commonwealth of Virginia, do hereby certify, that the laws contained in the first volume of "*The Statutes at Large of Virginia*," (new series,) published by SAMUEL SHEPHERD, have been compared by me with the originals from which they were taken, and found to be truly and accurately printed, with the exception of a few errata noted below. Given under my hand the day and year aforesaid.

GEORGE W. MUNFORD,  
*Keeper of the Rolls of Va.*

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### ERRATA.

- Page 5, ch. 2, § 3, last line, before "*January*," insert "*of*."  
Page 67, § 13, lines 4 and 5, for "*survever*," read "*surveyor*."  
Page 138, § 13, line 8, for "*prevening*," read "*preventing*."  
Page 181, from the bottom, line 2, for "*reparation*," read "*reparation*."  
Page 217, § 23, line 2, for "*debor*," read "*debtor*."  
Page 233, ch. 44, § 2, line 1, for "*therfore*," read "*therefore*."  
Page 298, ch. 14, § 1, line 5, for "*gurdianship*," read "*guardianship*."



# INDEX.

## A

### ABATEMENT.

- Suit, when shall not abate, by the death of  
either party, 31  
Joint tenancy may be pleaded in abate-  
ment, under oath, 167  
Exceptions of *nontenure* of parcel, not to  
abate the whole writ, 169

### A. B. C. TABLES.

- Keepers of A. B. C. or E. O. tables, or  
faro banks, or other like tables or  
banks, to be deemed vagrants, 109  
Their tables to be destroyed, 109

### ABSCONDING DEBTORS.

- See *Attachments*.  
Penalty on master of a vessel carrying any  
person out of the commonwealth, un-  
less such person has advertised in the  
gazette his intention to leave it, 40  
Such master may be sued at any time, and  
ruled to give special bail, 40

### ABSENT DEBTORS.

- How proceeded against in courts of equity, 36  
How their effects may be disposed of, and  
on what terms, 36, 37  
Publication, order of, 37  
Effect of failing to appear, 37  
When and on what terms they may ap-  
pear, 36, 37  
Plaintiff to give security to abide orders  
that may be made in the suit, 37  
Failing to give security, effects to remain  
under the direction of the court, 37  
Rehearing, when and how obtained, 37

### ABSENT DEFENDANTS.

- How proceeded against, 37, 38

### ACCESSARIES.

- Where to be examined and tried, 23  
In felonies, when shall be prosecuted in  
same manner as if the principals had  
been attained, 147

### ACCOMACK COUNTY.

- How owners of sunken lands therein may  
obtain leave to cut canals or ditches  
through the adjoining lands for draining  
them, 323  
Viewers to be appointed, 324  
Owners of adjoining lands to be sum-  
moned, 324  
Writ of *ad quod damnum*, &c. 324  
Court to determine whether canal, &c.  
shall be opened, 324  
Petitioner's right on paying the value of  
land to the proprietor, 324, 325  
Right of soil in original owner, 325

- Penalty for filling up any such canal, &c. 325  
Bridges to be kept by the petitioners over  
the canals where they cross public roads, 325  
Costs, rules respecting, 325  
Petitions, reports, &c. to be entered of re-  
cord at large, 325

### ACTS OF ASSEMBLY

- To be sent to the clerks of the county and  
corporation courts, by the executive, 9  
Private acts may be given in evidence  
without being specially pleaded, 33  
Act to prevent unlawful gaming to be  
given in charge to grand juries, 110  
Certain acts repealed, 200, 311  
All acts concerning lands to be collected  
and published, 360  
By whom to be collated, 360  
Collators may appoint a clerk and fix his  
compensation, subject to the approval of  
the executive, 360  
Number of copies, and how to be distri-  
buted, 360  
Cost of edition, how to be paid and reim-  
bursed, 360  
Certain acts to be printed in the German  
language, 339

### ACTS OF PARLIAMENT.

- No statute or act of the parliament of G.  
Britain to have any force or authority  
within this commonwealth, 200  
*Proviso*, as to rights arising under, and  
crimes committed against them before  
27th December, 1792, 200  
And saving the right to writs remedial and  
judicial, and the proceedings thereon, 200

### ADDITION

- Of defendant's estate, degree, &c. in in-  
dictments, 24

### ADMINISTRATION.

- See *Executors, &c.*  
Rules in granting administration of in-  
testates' estates, 93  
Who first entitled, 93  
When a creditor, &c. 93  
Wills may be proved after administration  
granted, 93  
Oath of administrator, 93  
Bond, 94  
Sureties in bond, to what extent charge-  
able, 94  
Justices, when liable for not taking good  
security, 94  
How sureties may be indemnified, 94  
Certificate of administration, as effectual  
as letters in due form, 94, 95  
Clerk to make out full letters, if required, 95





Lists of probats and administrations in the general, district, county and corporation courts, to be recorded in the general court,

### ADMINISTRATORS.

See *Executors, &c.*

### AD QUOD DAMNUM.

Writ of, to issue on petition to build a mill, 136  
Proceedings thereon, 136

### 'ADULTERY AND FORNICATION.

How punished, 193  
What proof necessary to conviction, 193

### ALBEMARLE COUNTY COURT.

To appoint persons to convey certain lands sold by Clifton Rhodes, late sheriff of the county, 255

### ALEXANDRIA, (*Bank of*).

Capital thereof to be augmented, 373  
Subscription to be opened for a certain number of shares, 374  
Time within which to subscribe, and procedure in case of excess of subscriptions, 374  
Subscriptions how, and when paid, 374  
Privileges of stockholders, 374

### ALIENAGE

Of an ancestor, no bar in making title by descent, 100

### ALIENATIONS.

See *Conveyances.*

### ANCESTOR.

Alienage of, no bar in making title by descent, 100

### ANDERSON, (CICELEY.)

Proceedings on her forthcoming bond, as administratrix of William Anderson, deceased, suspended for one year, 332  
Farther suspended, 417

### APPAMATOX RIVER.

Trustees appointed for opening, clearing, extending and improving its navigation from *Banister's* mills, 390  
Incorporated by the name of *The Upper Appamatox Company*, 390  
Subscriptions for shares to be received, 391  
Subscribers failing to pay the requisitions made from time to time, may be proceeded against by motion, &c. 391  
Shares transferrable, and how, 393  
Treasurer to be appointed by the trustees, who shall give bond, &c. 391  
Trustees authorized to agree with persons through whose land a canal may be cut, for the price thereof, and mode of proceeding in case of disagreement, 392  
May contract for the cutting of such canals, 392  
On completion of navigation, may demand tolls, rates of, 392, 393  
Penalty on persons refusing or neglecting to pay toll, 393  
Owners of mills to erect locks within a certain time, and to keep them in repair, 393  
Dams wherein such locks, &c. are not erected, declared nuisances, and liable to be abated at the expense of owner, 394  
Penalty on persons permitting a tree to be felled in the river, 394

### APPEALS

From decrees of the county and corporation courts in chancery to the high court of chancery, how obtained, 301  
From decrees of the high court of chancery to the court of appeals, 302

### APPRAISEMENT.

When not necessary, 95  
Inventories and appraisements, how far evidence for or against executors and administrators, 95

### APPRAISERS.

Of decedent's estates, how and by whom appointed, 95  
Allowance to, 95  
Where no appraisement shall be necessary, 95

### APPRENTICES.

Poor orphans to be bound apprentices by the overseers of the poor, 105  
Terms and stipulations to be expressed in indenture, 105  
Courts may direct overseers of the poor in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars, 300  
Guardians may bind out their wards with approbation of the court, 105  
Apprentices over sixteen years of age may bind themselves to serve until they are twenty-four years of age, 105  
County and corporation courts to hear complaints of apprentices against their masters, and of masters against their apprentices, 106  
Bastard children to be bound apprentices by the overseers of the poor, 120

### APPROVERS.

In no case to be admitted, 26

### ARMISTEAD, (LUCY.)

Warrants to be issued to, for price of a horse impressed, and value of beef furnished for public use, 331, 332

### ARMS.

Public arms to be put in complete repair, 255  
Small arms to be procured annually by the executive, 365

### ARSENAL, (*Federal*.)

President of the United States authorized to purchase land in this commonwealth on which to erect, 306, 307

### ARSON.

See *House Burning.*

Felony without clergy, to burn any house, 147

### ASSAULT AND BATTERY.

In indictments for, prosecutors may be compelled to give security for costs, 26

### ASSEMBLY

Shall meet on 2d Tuesday in November in every year, 236  
Daily allowance of members of assembly, and rate of mileage, 377  
Allowance to the officers of the general assembly, 253, 338, 431

### ASSETS.

See *Executors and Administrators.*

### ASSIGNMENTS.

Suits maintainable in the name of an assignee of any bond, bill or obligation whatever, 366



## ATTACHMENTS.

See *Absent Debtors* and *Absconding Debtors*.

- Attachments against absconding debtors may be issued and served on Sunday, 40  
 Against absconding debtors where debt exceeds five dollars or two hundred pounds of tobacco, how obtained, executed and returned, 38  
 Bond and surety to be given by complainant before attachment granted, 38  
 Attachments, how and on what terms replevable, 38  
 Proceedings where bond is given to sheriff to appear, 39  
 On failure to appear, 39  
 Attachment where debt is less than five dollars, how obtained, 39  
 Attachments, how prosecuted where the debt does not exceed twenty dollars, and the debtor intends to remove his effects, 39  
 On failure to replevy effects attached, plaintiff to have judgment, 39  
 Garnishee, when there shall be judgment against, 39  
 Live stock attached, how to be supported and expense defrayed, 40

## ATTAINDER

- Not to work corruption of blood,  
 Estates of persons convicted, attainted, or outlawed of treason, felony, &c. to descend and pass as if they had died intestate, 25

## ATTORNEYS AT LAW.

- How license obtained, 13  
 How qualified, 13  
 Oath of, 4. 13  
 Licenses may be suspended or vacated for malpractices, 13  
 Who incapable of obtaining a license or practising, 13  
 Power of county or other inferior courts over attorneys practising therein, 14  
 Appellant's attorney in the inferior court not to prosecute the appeal under penalty, 14  
 Penalty on their engaging to appear for defendants, and failing, 14  
 To pay costs of suits dismissed for their nonattendance, and liable to party for damages, 14  
 May be proceeded against in a summary way for money received for their clients, 14  
 Power of attorney to confess judgment before suit brought, void, 14. 32  
 Penalty for presuming to appear under such power, 14, 15  
 Only two attorneys to argue on the same side, 14  
 Except in criminal cases, or for good cause shewn, 14  
 No justice or officer to appear as attorney in the court whereof he is a member or officer, except as general attorney for nonresidents of the commonwealth, under penalty, 15  
 Fees of, 15  
 In general court, 15  
 In high court of chancery, 15  
 In district courts, 15

- In county and corporation courts, 15  
 Not to recover more than legal fees, 15  
 Fees to be taxed in the bills of costs, 16

## AUDITOR.

- See *Treasurer*.  
 How appointed, qualified and removable, 61  
 To give bond and surety for the faithful discharge of his office, 62  
 Chief clerk to act in case of sickness of auditor, 63  
 Auditor's duty, 62  
 To proceed against public debtors, 62  
 In what manner, 62  
 To be assisted by as many clerks as the executive may think necessary, 62  
 Persons aggrieved by his disallowing or abating any claim, how redressed, 62  
 Auditor's office to be under the control of the executive, 64

## B

## BAIL IN CRIMINAL CASES.

- What prisoners bailable by examining court, 20  
 When before a justice of the peace or a judge of the general court, 21  
 When before two judges of the general court, 21  
 When bailed or discharged, if not tried, 22

## BAIL IN CIVIL CASES.

- Summary remedy of common bail against the defendant, 196

## BAIL PIECE.

- Form of, 34

## BAKER, (LAWRENCE.)

- Act for refunding a sum of money to, 431

## BALLAST.

- Duty of masters of vessels intending to unlade, 146  
 Penalty on neglect, 146  
 Defendants in suits for penalties may be held to bail, 146

## BALLAST MASTER.

- How appointed, 145  
 Qualification of, 146  
 Penalty for failing or refusing to qualify and act, 146  
 Vacancies, how supplied, 146  
 Their duties, 146  
 Penalty for neglect, 146

## BANISTER RIVER.

- By whom and how slopes over mill dams across, may be built, 258  
 Slopes for taking fish, how to be constructed, 258

## BANK OF THE UNITED STATES.

- President and directors of, authorized to establish offices of discount and deposit in this commonwealth, 357

## BARGAIN AND SALE.

See *Conveyances*.

## BASTARDS.

- Issue of marriages null in law, legitimated, 101  
 When bastards shall be legitimated, 101  
 Bastards capable of inheriting and transmitting inheritance on the part of the mother, 109





- How the fathers of bastard children born of free single women, may be compelled to support them, 119  
 Women while pregnant, not to be questioned by the justices concerning their pregnancy, 119  
 Bastards may be bound apprentices by the overseers of the poor, 120
- BATH, (Town of.)**  
 In the county of Berkeley, 270  
 Trustees appointed; vacancies, how filled, 270
- BEASTS.**  
 Penalty on owner of, for breaking into legal inclosures, 189  
 When party injured may sue for damages, or destroy the beasts, 189  
 Penalty for hurting beasts in grounds not sufficiently fenced, 189  
 Beasts known to have barked fruit trees, may be taken up, and reward claimed for their apprehension, 189
- BEDFORD, (THOMAS.)**  
 Auditor to issue a duplicate of a lost certificate to, 422
- BEEF.**  
 See *Pork*.
- BELL, (MOORE.)**  
 Duplicate of a military certificate to be issued to, 337
- BIGAMY.**  
 Felony to marry a second time, the former husband or wife living, 133  
 Certain cases excluded, 134
- BIGGS, (JOSEPH.)**  
 Auditor to issue a warrant on the treasury in favour of, 418
- BILLS OF EXCHANGE.**  
 How suits may be brought, and judgments entered thereon, 35  
 Damages and interest to be paid on protested bills, 35  
 The sum in current money, paid for bills, must be expressed therein, 35  
 Penalty for inserting any other sum, 35  
 Discovery of true rate of exchange, how enforced, 35  
 Inland bills, what, 366
- BILLS OF SALE.**  
 See *Conveyances*.
- BLACKBURN, (BENJAMIN.)**  
 Arrears of his pension to be paid him, and mode of obtaining his pension in future, 278
- BLEDSE, (PEACHY.)**  
 Auditor of public accounts to issue certificates to, 281
- BOATS.**  
 Penalty for taking boats or other vessels without owner's leave, 190
- BOOK DEBTS.**  
 See *Store Accounts*.
- BOTETOURT, (Parish of.)**  
 Certain laws respecting, repealed, 274  
 Glebe land of, to be sold, 275  
 Purchase money, how to be applied, 275  
 Trustees, how compensated, 275, 276
- BOTETOURT AND MONTGOMERY.**  
 Boundary line between, ascertained, &c. 406  
 Sheriff of Montgomery to collect monies heretofore due, 466
- BOTT, (JOHN.)**  
 Auditor to issue a warrant for the payment of money to, 416
- BOUNDARIES**  
 Between this commonwealth and Kentucky; executive to communicate with the governor of Kentucky respecting, 434
- BOUNDS.**  
 See *Prison Bounds*.
- BOWLING, (WILLIAM.)**  
 Certificate to be issued to the heir of, by auditor of public accounts, 252
- BRANCH, (BENJAMIN.)**  
 Damages on judgment against, remitted, 277
- BREACHES.**  
 In actions on bonds, &c. for nonperformance of covenants, how assigned, 31
- BRIBERY.**  
 Penalties on any officer of government, taking any thing for doing his office, except what is allowed by law, 5  
 On members of assembly, bribing electors, 5  
 For bribing electors of representatives in congress, 6
- BRIDGES.**  
 Over Occaquan authorized, 429, 430  
 Goose creek, 430
- BRISTOW, (ROBERT.)**  
 Tract of land, formerly his property, to be sold, 237
- BROOKVILLE.**  
 Town of, established, 426  
 Trustees appointed, 426  
 Their powers, 426  
 Vacancies, how supplied, 427  
 Lots when and how to be sold, 426  
 Penalty on purchasers failing to build, &c. 426  
 Rights of purchasers, 426
- BROOKE, (THOMAS.)**  
 Certificate to be issued to, 339
- BROWNSBURG.**  
 Town of, established in the county of Rockbridge, 266
- BUCK, (JOHN.)**  
 Auditor to issue a warrant for the payment of money to, 416
- BUGGERY**  
 With man or beast, felony without clergy, 113
- BURNING HOUSES.**  
 Felony without clergy to burn any house, 147
- BUYING AND SELLING OFFICES.**  
 Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office, 6  
 Penalty for agreeing to give, or for giving any thing for such office, 6  
 Contracts for such purposes, void, 7  
 Not to extend to appointments of deputy clerks or sheriffs, 7  
 Official acts of persons convicted of violating the act against buying and selling offices, performed before removal from office, valid, 7





## C

## CALLED COURTS.

See *Examining Courts.*

## CANNON.

Each company of artillery to be furnished with one field piece, 366

## CAPIAS AD SATISFACIENDUM.

Form of, 209

Return of, 210

## CAPITOL.

Money granted for paying for certain work executed in and about the capitol, 333

For repairing or altering the roof of, 411

## CAROLINE COUNTY.

Court of, to be held at the Bowling Green, 310

## CARTERSVILLE.

Farther time allowed owners of lots in the town of, to build thereon, 412

Prohibited building log or other houses with dirt or wooden chimneys, 412

Trustees authorized to make rules for regulating buildings, 412

## CASTRATION

Of slaves, when and for what offence it may be inflicted, 125

Owner's remedy, where slave is killed, or dies through negligence of the surgeon undertaking to dismember or cure him, 125

## CATTLE.

Bills of health to be produced by persons driving cattle into or through the commonwealth, 190

How bills of health to be obtained, 190

Proceedings where cattle are found to be distempered, 190

Their owners to confine them, and when dead, to bury them, 190

Drivers of cattle to produce manifests of their droves, and make oath thereto, 190

How proceeded against for breach of these regulations, 191

Driving cattle in certain cases excluded from these provisions, 191

## CAVEATS.

See *Land Office.*

Proceedings thereon, 70

Affidavit to be filed by caveator, 71

Caveats to be dismissed, if the summons be not served or not returned, 71

Caveats, when not to be entered, 71

List of caveats dismissed or determined, to be sent to the land office, 71

When a caveat is established, fees paid by caveator to be paid to the person returning the survey, 61

## CENTERVILLE.

Farther time allowed purchasers of lots in, to build thereon, 423

## CHALLENGE.

See *Jury.*

Jurors, how challenged by prosecutor for the commonwealth, 22

How many may be challenged peremptorily by prisoner, 22

Effect of challenging peremptorily more than he legally may, 23

## CHAMPERTY.

Champerors, who and how punished, 110

CHANCERY, (*High Court of*)See *Appeals. Clerk of.*

## CHANDLER, (THOMAS.)

Certificate to be issued to, 339

## CHARLESTOWN.

In the county of Kanawha, established, 322

## CHARTER PARTIES.

Foreign, how to be authenticated, to be admitted in evidence, 88

## CHEATHAM, (WILLIAM.)

Certificate to be issued to, by auditor of public accounts, 231

## CITIZENS.

Who shall be deemed citizens, 143

Emigrants, other than alien enemies, how they may become citizens, 143

Incapacities, 143

Certain descriptions of persons prohibited, 149

How may be punished for violating these provisions, 149

All other former residents, allowed to return, 150

But not to vote at elections, or hold offices, 150

How a citizen may expatriate himself, 149

## CLAGG, (ALEXANDER.)

Auditor to issue a warrant on the treasury in favor of, 418

## CLARK, (JOHN and others.)

Certificate to be issued to, 339

## CLERKS

Of county and corporation courts, how qualified, 11

How to be appointed, when the court is equally divided, 12

Penalty for acting without qualifying, 11

Bond and surety to be given, 11

To be transmitted to the clerks of the district courts, 11

Penalty on failure to transmit, 11

How punished for making false entries, &amp;c. 11

Party injured, how relieved, 11

Penalties, how recovered, 12

Clerks appointed since June 1776, to reside in their counties or corporations, 12

Offices, where may be kept, 12

To be annually inspected, and by whom, 12

Public moneys received by them, when to account for, 12, 61

Punishment in case of fraud therein, 12

To keep lists of executions in books, and constantly carry them to their courts, 12

Clerks to certify to the commissioner of the revenue their appointment, 53

Allowance to the clerks, 56

When to account for, and pay taxes collected by them, 61

## CLERK OF THE HIGH COURT OF

## CHANCERY.

Fees of, 232, 233

Vacancy, how supplied, 234

Incumbent to continue in office till next court, 234

Allowance to chancellor for employing a clerk, 234

## COIN.

Part of the act of 1792, respecting German gold and cut silver, repealed, 233



- COLEMAN, (WILLIAM.)  
 Certificate to be issued to, 339  
 COLLECTORS.  
 See *Revenue*.—*Taxes*.  
 COLLEGE OF WILLIAM & MARY.  
 President and professors to examine persons nominated as surveyors, and if competent, certified, 65  
 One sixth of surveyor's fees payable to, 65  
 Exceptions, 66  
 List of surveys to be annually returned to, 69  
 COMES, (GILBERT and others.)  
 Duplicate land warrant to be issued to, 277  
 COMMISSIONERS.  
 See *Revenue*.  
 Of the *revenue* to be appointed, 53  
 Who incapable of holding the office, 53  
 Where there are several in a county, separate districts to be assigned to each, 53  
 Three to be appointed in certain counties, and two in certain other counties, and one in every other county, and in certain cities and towns, 53  
 Penalty on persons refusing to serve, 56  
 None compellable to serve more than one year, 56  
 Clerks of courts to certify to the commissioners their appointment, 53  
 Oath of commissioners, 54  
 Vacancies, how supplied, 56  
 When and how may be removed from office, 56  
 Commissioners to receive and keep the books containing the accounts of the taxes on lands, 51  
 To be furnished with lists of conveyances, partitions, and of patents, 54  
 To value lands therein mentioned, 54  
 Their duty in cases of alienations, and where lands have not been heretofore valued, 54  
 To take the lists of taxable property, 54  
 Billiard tables, rules respecting, 55  
 How the lists are to be taken, when the persons chargeable are absent when the commissioner calls to receive them, 57  
 To return to the courts lists of their own property, 58  
 To make four general alphabetical lists of taxable property, 55  
 To whom, and when to be delivered, 55  
 To deliver fair copies of the state of the land tax to the clerk of the court, to the sheriff, and to the auditor, 55  
 Allowance to the clerks of the courts, 56  
 To the commissioners, 56  
 Not to exceed the taxes of the county, 56  
 For entries of alienations or alterations, 56  
 False lists of property, penalty for delivering, 56  
 For refusing to give lists on oath, 56  
 How the lists are to be taken, and the property taxed in such cases, 56  
 Delinquents, how proceeded against, 57  
 Copy of the proceedings to be set up at the courthouse door, 57  
 Every person knowing of any false list delivered, to give information to the commissioner or to the court, 57  
 Copy of proceedings to be transmitted to the governor, 57  
 To be admitted as evidence on the auditor's motions for fines, 57  
 Penalty on the clerks, justices or commissioners, for neglect of duty, 57  
 Lists of insolvents to be entered in commissioner's books, and the sheriff credited therefor, 53  
 Taxes due from persons removing from one county to another, how collected, 53  
 Account of additional taxes and fines to be sent to the auditor, 53  
 Commissioners to state a general account of taxes, with the sheriff, 58  
 Form of book, containing taxes on lands, 58  
 Form of returns of taxable property, 59  
 CONFESSION.  
 Judgment on, equal to a release of errors, 34  
 CONNER, (CHARLES.)  
 Damages paid by him, on certain judgments obtained by the commonwealth, to be refunded to him, 333  
 CONSERVATORS OF THE PEACE.  
 Who shall be, 10  
 Authority of, 10  
 CONSTITUTION OF THE UNITED STATES.  
 Senators instructed, and representatives requested, to obtain such an amendment of, as will remove all difficulty as to the sueability of a state, 2:1, 432  
 And to prohibit any director of the bank of the United States, from being a member of either house of congress, 254  
 Amendments proposed, respecting the treaty making power, the jurisdiction of the senate, &c. 434  
 CONVEYANCES.  
 See *Fraudulent Devices*.  
 No estate of freehold, or for a term of more than five years, in lands or tenements, to pass but by deed, 84  
 Every estate conveyed or devised, to be deemed a fee simple, unless a less estate be limited, 86  
 All bargains, sales, &c. valid and binding between the parties, though not recorded, 84  
 But not effectual against purchasers for valuable consideration, without notice, or any creditor, unless acknowledged, or proved and recorded, 84  
 How, when and where, such deeds must be acknowledged, or proved and recorded, 84  
 Marriage, covenants and agreements in consideration of, how, when and where must be acknowledged, or proved and recorded, 84  
 Livery of seizin to be recorded with the deed, 84  
 By what conveyances, the possession of the grantor, shall be transferred to the grantee, without livery of seizin, 87  
 All conveyances, settlements, trusts and mortgages of lands or chattels, void as to creditors and subsequent purchasers, if not recorded, 84





Where grantor resides out of the county, district or state where the lands lie, how deeds may be acknowledged or proved,		Persons found guilty, how proceeded against,	50
	85. 293	If not present, warrant to apprehend,	51
Deed by husband and wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States,		Examining court to be summoned,	50
If she resides out of the United States, to whom the commission must be directed,	85	Duty of coroner to commit to writing the evidence deposed to, being material, and to take the recognizances of the witnesses to appear at the examining court,	50
Privy examinations of <i>femes covert</i> void, if not recorded,	85	Body to be buried after inquest,	50
Writings acknowledged or proved in court, in what manner to be recorded,	85	Persons dangerously wounding another, to be immediately arrested,	50
Memorials of such writings recorded in the district and county courts, to be recorded in the general court,	86	Accessaries to be apprehended and confined,	51
Estates in fee tail on 7th October, 1776, shall be deemed and taken, from that time, estates in fee simple,	86	And, any suspected of murder,	51
Estates tail, rule of construing,	86	Hue to be levied of murders, burglaries, &c.,	51
<i>Proviso</i> , respecting such estates as have or may become escheatable for defect of blood,	86	Coroner to keep in his hands the estate of the murderer until he is taken,	50
Such estates may be disposed of by will or deed, and shall be subject to debts, as those in fee simple,	86	Penalty on coroner for neglecting his duty,	51
Contingent remainder, when it shall be good, though there be no intermediate estate,	86	Process to be served by coroner, when just exception to sheriff, &c.,	51
Trust estates subject to debts and charges, as if the person held the like interest in the thing holden, as in the use thereof,	87	Coroner subject to the like penalties and fines as sheriffs, &c.,	51
Subject to dower and curtesy,	87	No security to be taken on executions against them for neglect of duty,	51
Grants of rents, reversions, &c. good and effectual, without attainments,	87	CORRUPTION OF BLOOD.	
Attornment to a stranger, when void,	87	Attainder not to work,	25
Commissioners and sheriffs—Conveyances by, under decrees and judgments of courts, effectual for passing the title,	87	COSTS.	
		See <i>Security for</i> .	
CONVICTS.		Laws of, not to be interpreted as penal laws,	34
Estates of, how to descend and pass,	25	When to be recovered by defendants prosecuted for trespass, &c.,	25
CORNHILL, (MARY.)		When not to be recovered by plaintiffs in assault and battery and slander,	31
Placed on pension list, and immediate relief granted,	415	When plaintiff shall recover no more costs than damages,	30
CORONERS.		Remedy where more costs shall be awarded,	30
How nominated and commissioned,	43	Where defendant shall have his costs,	30
Penalty on the court failing to nominate,	49	Executors and administrators, exception as to,	30
Several coroners may be appointed in each county or corporation,	49	COUNSEL.	
Oaths to be taken before they enter on their duties,	40	See <i>Attorneys at Law</i> .	
Not to serve executions until they have given bond and surety,	40	COUNTERFEITING.	
Not to act out of the limits of their respective counties, &c.,	49	See <i>Forgery</i> .	
Inquests to be taken where any person is found wounded or dead, or where houses are broken,	49	COUNTER SECURITY.	
Objects of enquiry,	50	Sureties for executors or administrators, when may demand,	94
Duty of the jury where any person is found slain,	50	COUNTS.	
Where persons are drowned or suddenly dead,	50	Where one of several counts is faulty, and there are general damages, the verdict shall be good,	33
Wounds to be viewed and described,	51	Defendant may apply to the court to instruct the jury to disregard such faulty count,	33
		CORPORATION COURTS.	
		Empowered to levy money for building jails, pillories, &c.,	235
		COUNTY LEVY,	
		When and how to be assessed,	185
		County courts to appoint the sheriff or any other collector, and take of him bond with surety,	186
		Collectors may appoint deputies,	186
		List of chargeable persons to be delivered to the collector,	185



- Remedy against him for failing to account for and pay over the money received, 186
- COURTS.**
- Place and time of holding, may be changed by the executive, 9, 10
- When may be adjourned, and the duty of the judges on adjournment, 10
- No discontinuance, if not held in usual terms, 10
- Courts of the county of Caroline to be holden at the Bowling Green, 310
- When to be holden in Albemarle, 310
- When in Alexandria, 310
- When in Berkeley, 310
- When in Hampshire, 310
- When in Hanover, 377
- When in Hardy, 310
- When in Mecklenburg, (quarterly term,) 397
- When in Northampton, 310
- When in Surry, 378
- When in Westmoreland, 310
- When in Winchester—district court of, 373
- When Fredericksburg corporation court, 377
- CREEKS.**
- See *Rivers.*
- CRIMES.**
- See *Criminals.*
- Maiming or disfiguring, 112
- Shooting or stabbing, 112
- Buggery, 112
- Horse stealing, 113
- Stealing or selling a free person as a slave, 126
- Stealing a slave, 126
- Burning any house, 147
- Breaking into store houses, and stealing therefrom, 147
- Rape, 178
- Carnally knowing a woman child under ten years of age, 178
- Forgery and counterfeiting, 182
- Tobacco stealing on or near the highway, 194
- Forgery or counterfeiting or assisting in any deed, will, bond, bill, note, acquittance or receipt, or assignment of any bond, &c., or uttering or publishing as true any such forged or counterfeit deed, &c., 303
- Offences committed by citizens against the commonwealth, &c. out of the jurisdiction of, where to be tried, 183
- CRIMINALS.**
- See *Examining Courts—Prisoners.*
- Free persons charged before a justice of the peace with criminal offences, how to be dealt with, 20
- Where offender to be examined and tried, when one feloniously stricken or poisoned in one county, dies in another, 23
- Criminals, how to be conveyed to the counties where the offences were committed, 24
- How conveyed to the district jails, 21
- When bailable before a justice of the peace or a judge of the general court, 21
- When before two judges of the general court, 21
- Proceedings to be had, on being sent on by examining court, 21
- Copy of depositions and of the warrant of commitment to be sent to the attorney for the commonwealth in the district courts, 24
- To be allowed counsel, 22
- When to be tried, 22
- When they shall be bailed, or discharged if not tried at first term, 22
- Their witnesses, how to be summoned and paid, 23
- Charges of prosecution, how defrayed, 23
- Expenses attending criminal prosecutions in county and other inferior courts, how liquidated and paid, 23
- Accessaries, where to be examined and tried, 23
- CROPS.**
- When assets, 96
- CURATORS.**
- See *Guardians.*
- Of decedents' estates, when to be appointed, 92
- Qualification and duties, 92
- CURSING.**
- See *Profane Swearing.*
- CURTESY.**
- Trust estate subject to, 87
- D**
- DAMAGES.**
- On protested bills of exchange, 35
- DANVILLE.**
- Town of, established at Winn's falls, in the county of Pittsylvania, 267
- DATE**
- Of delivery of articles in store accounts to be specified, 28
- Penalty for post dating, 28
- DEAD BODIES.**
- From on board vessels, how to be buried, 146
- DEATH.**
- Sentence of, not to be executed in less than thirty days, 23
- DEBTS.**
- Trust estates subject to, 87
- DEEDS.**
- See *Conveyances.*
- DEER.**
- Tame deer, penalty for killing, 151
- DELEGATES.**
- See *Assembly.*
- DEMURRER.**
- General, what defects to be regarded, 33
- DENNIS, (NATHANIEL.)**
- Duplicate of certain certificates to be issued to, 333
- DEPOSITIONS.**
- See *Evidence.*
- DESCENTS.**
- See *Intestates' Estates—Real.*
- Alienage of an ancestor no bar in title by descent, 100
- DETINUE.**
- What omissions in verdicts in, may be remedied, and how, 33
- Distingas* may be superseded as to specific thing, 222





## DEVICES.

See *Wills*.

## DISALLOWANCE.

Persons aggrieved by auditor's disallowing or abating any claim, how redressed, 62

## DISCLAIMER.

In trespass *quare clausum fregit*, defendant may plead disclaimer, and tender of amends, 30

## DISFIGURING.

Punishment for disfiguring another, 112

## DISMAL SWAMP CANAL COMPANY. 407

Time of annual meetings, 407

## DISMEMBER.

Powers vested in the executive for suppressing combinations for dismembering the state, 2

## DISTRESS.

See *Rents*.

Unreasonable distresses not to be made by sheriffs, &amp;c., 47

What may be distrained for taxes, 60

When distress may be sold, 60

## DISTRIBUTION.

See *Intestates' Estates*.Of intestates' estates, when to be made, 97  
How to be distributed amongst their representatives, 93

Husband not bound to distribute the personal estate of his wife, 93

Advancements must be brought into hotchpot to entitle the party to share the distributable surplus, 93

## DISTRICT COURTS.

Judges of the general court may attend and hold a district court in any district, 367

District court to be holden at the Sweet springs, 375

Persons appointed to view the building, 375

District court of Winchester, when to be holden, 378

## DISTRICTS.

Counties arranged into senatorial districts, 7

## DISTRINGAS

In detinue may be superseded as to the specific thing, 222

## DIXON, (JAMES.)

Interest of commonwealth in certain lands vested in the widow and children of, saving the rights of others, 335

## DOWER.

Widows entitled to, 101  
How right may be forfeited, 103

Widow may remain in the mansion house and plantation until assigned, 101

Remedy in case they are in the mean time deforced thereof, 102

Damages for deforcing widows of their dower, 102

Writ of dower, what exception shall not abate, 102

Judgment by default against husband no bar to widow's right, 102

Remedy where widow is endowed to the prejudice of the heir within age, 102

Judgment by default against a widow impleaded for her dower, shall not bar her right, 102

Trust estates subject to dower, 87

Widow may renounce the provision made in her husband's will for her, and claim her dower in the slaves, &amp;c., 92

Widows may bequeath the crops of their dower lands, 103

Jointure, when a bar to dower, 103

Widows not to have both their dower and the lands intended to be in lieu thereof, 103

When evicted of their jointures, or any part thereof, how recompensed, 103

Penalty on widows removing dower slaves out of the state, 123

Penalty on the husband of any one so endowed, 123

## DRINK.

See *Ordinaries*.

## DRUMMOND, (THOMAS.)

Auditor of public accounts to issue a warrant on treasurer in favour of, 231

## DRUNKENNESS.

How punished, 192

Within what time must be prosecuted, 192

## DUNKIRK.

Town of, established at Todd's warehouse, in the county of King &amp; Queen, 263

## DURESS.

What bonds taken by sheriffs void, 46

## E

## EJECTMENT.

Exceptions to declarations in, when to be made, 33

## ELECTIONS.

See *Assembly*.

## ELECTORS.

See *Assembly*.

## ELEGIT.

Form of writ, 209

Return of, 210

Tenant by, if evicted, may have a *scire facias* against his debtor, and another execution for his debt, 211

## EMANCIPATION.

See *Negroes and Mulattoes*.

## EMBLEMENTS.

When assets, 96

## EMIGRANTS.

See *Citizens*.

## ENTRIES.

See *Land Office*.

## ENTRY.

See *Forcible Entry and Detainer—Right of Entry*.

## E. O. TABLES.

See *A. B. C. Tables*.

## ESCAPES.

Penalty on private persons suffering criminals to escape, 25. 43

Process against prisoners escaped, 41

Return thereof on retaking the prisoner, and proceedings thereon, 41

Prisoners escaping from prison rules, how proceeded against, 42

Sheriff, when not liable for escape of prisoners, 42

Sheriff, when liable, and how proceeded against, 42





## ESCHEATORS.

How appointed,	51
Not to act by deputy,	51
To give bond and surety,	51
Inquests, when and how taken,	52
Number and qualification of jurors to be impannelled on each inquest,	206
Where they shall meet,	206
Inquisitions, when taken, how to be disposed of,	206
Attorney for commonwealth to attend to the taking of inquests, and allowance therefor,	206
Fees of escheators,	206
Mode of proceeding, where claim is made to the land,	52
Lands seized by the commonwealth not to be let to farm to any but the claimant,	52
When and how sold, if not claimed, or being claimed, the right be found in commonwealth,	52, 206
Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be or be not found in the inquisitions,	52
Where a traverse or <i>monstrans de droit</i> may be had to an inquisition,	53
Resolution respecting delinquent escheators,	235

## ESTATES TAIL.

Estates in fee tail on 7th October, 1776, shall be deemed and taken, from that time, estates in fee simple,	86
Rule of construing,	86
<i>Proviso</i> respecting such estates as have or may become escheatable for defect of blood,	86
Estates tail may be disposed of by will or deed, and shall be subject to debts as estates in fee simple,	86

## EVANSHAM.

Powers of trustees of town of,	323
--------------------------------	-----

## EVIDENCE.

See <i>Witnesses</i> .	
Private acts of assembly may be given in evidence,	33

## EXAMINING COURTS.

How constituted,	20
Their powers,	20
Proceedings to be had on determining that prisoner ought to be tried in the district court,	21

## EXCHANGE.

See <i>Bills of</i> .	
Rate of, how ascertained,	35
At what difference of exchange judgments for sterling debts shall be discharged,	35

## EXECUTION BOOKS.

Clerks of county and corporation courts to keep lists of executions in a book, and constantly carry them to their courts,	12, 13
---	--------

## EXECUTIONS

Good, though not directed to any sheriff, if duly served,	33, 222
Sheriff not obliged to go out of his county to pay money levied by execution,	47
Creditors to appoint agents in the counties in which executions are served,	223

Deputy sheriff to endorse on executions the time when received, and to subscribe his name and that of his principals, to return on process,	43
Time of the delivery of, to be endorsed by the officer,	212
Property in goods bound from delivery of execution to officer,	212
Goods on leasehold lands not to be taken in execution, until not exceeding one year's rent, be paid,	80, 224
Writs of execution how to be issued and returned,	203
There must be fifteen days between test and return,	203
When returnable in the general and district courts,	203
Form of the writs,	203, 209
Form of the returns,	209, 210
How another execution may be issued, where the first has not been served, or has not been satisfied,	210
Issued from county or other inferior court, may be served in any other county,	211
Tenant by elegit, if evicted, may have a <i>scire facias</i> against his debtor, and another execution for his debt,	211
No extent to be avoided for the omission of part of the lands extendible, saving remedy of contribution,	211
Infants' lands excepted,	211
If debtor dies in prison, creditor may have new executions against his estate,	211
Not to affect lands of debtor <i>bona fide</i> sold for payment of his debts,	211
Persons in execution delivered by privilege of general assembly, to return in execution when privilege ceases,	211
Goods taken in execution, when and how to be sold,	212
Officer may accept security for the forthcoming of goods at the day of sale,	212
Forthcoming bonds when to be returned,	213
Sheriff liable, when replevy or forthcoming bond is quashed as faulty,	222
Proceedings on the bond, where the goods are not delivered,	212
No security to be taken on executions thereon, or on replevy bonds,	213
No security to be taken on executions against sheriffs, coroners, constables, collectors of poor rates or overseers of the poor,	213
Slaves, in what cases they shall not be taken in execution,	213
Names of slaves taken in execution to be endorsed thereon,	214
<i>Venditioni exponas</i> , when shall be issued, and form of,	214
Slaves and live stock taken in execution to be supported by the officer,	214
Expenses thereof to be retained out of the proceeds of sales,	214
Mode changed,	201
Indemnifying bond, when officer may demand of plaintiff for selling,	214
When goods, &c. cannot be sold for three-fourths of their value, debtor may give	



- bond and surety to pay the debt within twelve months, 214  
 Or they may be sold on twelve months credit, 215  
 Separate bonds for the surplus to be taken to the debtor, 216  
 Tenor of bonds, and proceedings thereon, 215  
 Where obligors or obligees die, 215  
 Executions thereon issued after the payment of the money, may be quashed, 215  
 In what cases such bonds shall not be taken, 215  
 Commissioners to be appointed in each county and corporation, to value property under execution, and to judge of the sufficiency of sureties, 216  
 To be amenable to their respective courts, 217  
 Vacancies, how supplied, 217  
 To be summoned to attend sales, 217  
 When not to be summoned, unless required by defendants, 218  
 Method of proceeding when they do not attend, 218  
 Valuation of property to be made known to any person desiring it, 218  
 Sheriff's fee and commissions for taking bond, 215, 202  
 On sale of property no principal debtor to be received as surety, 218  
 Surplus money to be paid to debtor, 218  
 Money levied by execution to be restored to defendant obtaining an injunction to execution, 218  
 Prisoners in execution, when they may have liberty of the prison rules, 219  
 Insolvent debtors, how may be discharged from imprisonment, 219  
 Oath of, 219  
 How discharged, 220  
 Creditors may afterwards have executions against their estate, 220  
 When against their persons, 220  
 Debtor's estate, how to be disposed of, 220  
 His credits and effects, how recovered, 220, 221  
 Sheriff to retain his expenses, out of debtor's estate, 221  
 Prison fees of insolvent debtor to be paid by creditor, whose execution is first served, 221, 222  
*Distringas* in detinue may be superseded as to the specific thing, 222  
 Penalty on sheriff failing to return an execution, 222  
 Or to pay money levied by execution, 222  
 Decrees in chancery, executions may issue on, 223  
 Penalty on a sheriff failing to deliver a forthcoming bond to the plaintiff on demand, or to return it within sixty days to the clerk's office, 220  
 Remedy against executors and sureties of a sheriff failing to return an execution, or attachment, in due time, 221  
 No execution to be returned without an endorsement thereon, how it hath been executed, unless specially directed, 221  
 How sheriff proceeded against for failing to take bond for the excess on a sale on twelve months credit, 200  
 Obligees' and assignees' remedy on replevy bonds, 290  
 Plaintiff may sue out new execution where a replevy or forthcoming bond is quashed, 291  
 Writs of *degit* and *capias ad satisfaciendum*, may be issued on replevy bonds, &c., 291  
 Sheriffs to include their commissions in forthcoming and replevy bonds, 292  
 Fines and penalties on executors of sheriffs, to affect only the assets in their hands, 292  
 Act of 1793, concerning executions continued until 1st January, 1796, 290  
 Replevin and other bonds entered into for property taken under any execution, issued after a certain period, how and when to be made payable, 355  
 No bond to be received for property taken and sold, under any execution which may issue after the last day of July, 1797, 356  
 Courts on the motion of any assignor or assignors of any twelve months bonds, authorized to award execution against the original obligor or obligors, 356  
 Assignor may have like remedy against any prior assignor of any such bond, 356  
 Coroners not to serve executions until they have given bond and surety, 49  
 EXECUTIVE.  
 Powers vested in, to suppress combinations for dismembering the state, 8  
 To apprehend and secure suspicious subjects of a foreign belligerent state, 8  
 Their persons and papers, how secured, 8  
 Sheriffs and gaolers to obey the warrants of the governor, respecting them, 8  
 Foreign merchants to be protected in their legal privileges, 8  
 In case of the inability of the governor and president of the council, who to act, 9  
 When the council may act without the governor or president, 9  
 Executive to procure guards for public service, 9  
 When may appoint justices of the peace without recommendation, 9  
 To send the laws to the clerks of the county and corporation courts, 9  
 Fines, what, not authorized to remit, 9  
 Discretionary power vested in, to remit damages and fines incurred by public collectors, 202  
 May change the time and place of holding courts, 9, 10  
 When the judges may adjourn, and their duty on adjournment, 14  
 Clerks of council, how appointed; qualified, removed, 9  
 EXECUTORS AND ADMINISTRATORS.  
 See *Hills*.  
 Executors, their powers before probat, 92





Where executors named refuse the executorship, administration with the will annexed to be granted,	91	Duty of executors of executors as to the will of the first testator,	98
Curators of estate when to be appointed,	92	Executors or administrators of executors or administrators chargeable for waste done by their testators or intestates,	98
Qualification and duties of,	92	EXPATRIATION.	
When the executors named in the will refuse to qualify, and no person applies for administration, estate to be committed to the sheriff, &c.		How a citizen may expatriate himself,	149
Executors and administrators, how qualified,		EXTENT.	
Oath and bond of,		No extent to be avoided for omission of part of the lands extendible,	211
Certificates of probat or of administration attested by clerks of courts, as effectual as if in due form,	98	Saving remedy for contribution,	211
Clerks to make them out in due form, if required,	91	Infants' lands excepted,	211
When executors not obliged to give security,		EXTORTION.	
Sureties, how indemnified,		Penalties on any officer of government taking any thing for doing his office, except what is allowed by law,	6
Inventories and appraisements, how far evidence for or against executors or administrators,	92	F	
Debt not extinguished by appointing a debtor executor,	94	FAIRFAX AND LOUDOUN TURNPIKE ROAD COMPANY.	
When estate of decedent shall not be sold,		When to be incorporated,	380
Dead victuals and liquors to remain for the use of the family,		Commissioners to give notice of the number of shares required being subscribed,	380
Duty of executors and administrators in selling perishable goods, specific legacies excepted,		To call a meeting of the subscribers, to appoint officers and form by-laws,	380
Not to sell slaves for payment of debts, unless the other personal estate is insufficient,	340	Annual meeting of the company, when to be held,	380
In selling the other personal estate, duty of,	95	Each subscriber shall receive a certificate for each share from the president, &c., which shall be transferrable,	381
Lands devised to be sold, when authorized to sell,	96	President and managers to meet at certain times, and to act in all cases for the interest of the company, and to appoint superintendents, &c.,	381
Former sales and conveyances of lands devised to be sold by sheriffs where executor refused to act, confirmed,		Stockholders failing to pay the sum demanded on each share for ninety days after notice, to forfeit same to the company,	381
Rules concerning servants, slaves and crops,	99	President and managers authorized to enter and examine any ground through which the road is intended to pass,	381
Emblements, when assets, &c.,	96	To use any materials necessary to the construction of the road, found on any land, on paying therefor,	382
Where tenant for life of lands or slaves let or hired to another, dies after the first of March,	96	To erect bridges where necessary,	382
Rent, to whom payable where tenant for life of lands or slaves dies before it becomes due,	96	Width of, and manner in which the road must be constructed,	382
What debts of decedent to be first paid,	97	When ten miles are completed, notice thereof to be given to the governor, who shall cause the same to be examined,	382
Distribution of intestates' estate, when to be made,	97	Toll, when may be collected, and rates of,	383, 384
Executors and administrators to be allowed all just expenses, and a reasonable recompense for their trouble,	97	Waggons, &c. whose wheels have less tread than four inches, not to bear more than a certain burthen on the road during certain seasons,	383
In what cases they may be sued,	97	Mode of proceeding in case the road is defective, &c.,	383
In suits against them on open accounts, duty of the courts to expunge all items due five years before death of decedent,	97	President and managers to keep accounts of all moneys received and expended, and submit the same annually to a general meeting of the subscribers,	385
Penalty for post dating such accounts,		Shares may be increased, if found necessary,	385
Within what time actions of debt must be brought, and writs of <i>scire facias</i> issued against executors or administrators on judgments against their decedents,	98	Accounts of money received by the toll-gatherers, &c. to be kept, and semi-annual dividends thereof to be made,	386
Trespass for goods taken, &c. may be maintained by or against executors or administrators, taken in the lifetime of testator or intestate,	98		



General account of receipts and expenditures to be by the president laid before the legislature within a certain time after the completion of the road, and at stated times thereafter,	336	Ferry keepers may convey passengers from either side to the other,	160
Posts and index hands to be set up,	336	Owners of ferries may be licensed to keep ordinaries without fee,	159
Mile stones to be placed along the road,	336	Ferries over Elizabeth river to be let by court of Norfolk county annually,	159
Carriages to keep the right hand in the passing direction,	337	County courts may establish ferries opposite to those now appointed,	159
Penalty on failure,	337	Ferries heretofore established, for what causes shall be discontinued,	159
Rights of company may be resumed in certain cases,	337	And for what causes those hereafter established shall be discontinued,	159
FAIRFAX, (LORD.)		Proceedings against owners,	160
Agents appointed to make sale of certain land, recovered by the representatives of Jost Hite, &c. from the representatives of lord Fairfax,	420, 421	Ferries established across the west fork of Monongahela river,	256
Conveyances to purchasers, by whom to be made,	421	Over Patterson's creek,	257
FALSE NEWS.		Staunton river,	257
Divulgers of, to be fined, and bound to their good behaviour,	150	Rivanna,	257
FALSE TESTIMONY.		Greenbrier,	257, 408
Punishment of negroes or mulattoes for giving,	127	Cheat,	257
FARGUSSON, (JOHN.)		Pamunkey,	257
Land warrants to be issued to,	277	Rates,	257, 403
FARO BANK.		Penalty for demanding more than the legal rates,	257
See <i>Gaming</i> .		Ferries established across	
FEE SIMPLE.		Cheat river,	321
Every estate conveyed or devised, to be deemed a fee simple, unless a less estate be limited,	86	Dan,	321
FEE TAIL.		New,	321, 403
All estates in, on 7th October, 1776, shall be deemed and taken from that time, estates in fee simple,	86	James,	321, 403
See <i>Conveyances</i> .		Tyger valley,	321, 403
FEES.		Gauly,	321
Of attorneys at law,	15	Elk,	321
clerk of the high court of chancery,	232, 233	Kanawha,	321
inspector of lumber,	167	Rates of ferriages,	321, 403
For marriages,	132	Penalty for taking greater rates,	321
FENCE.		Rates across certain ferries on Rappahannock and Patowmac,	403
See <i>Inclosures</i> .		Penalties on ferry keepers for demanding more than the legal rates,	403
FERRIES.		FIDELITY, ( <i>Oath of</i> )	
Ferries established, and their rates,	152	No officer of the government to act until he takes it,	3
Over the Chesapeake bay,	152	FIERER, (CHARLES.)	
Patowmac river and its branches,	152	Auditor of public accounts to issue certificates to,	232
Rappahannock and its branches,	154	FIERI FACIAS.	
Piankatank river,	154	Form of,	203
York and its branches,	154	Return of,	209
James and its branches,	154	FINCASTLE.	
Nottoway river,	156	Town of, in Botetourt, name changed to "Monroe,"	318
Roanoke and its branches,	156	Trustees of Fincastle to be trustees of Monroe,	319
Ohio and its branches,	157	Lots and streets laid off adjoining the town, to be added thereto,	318
County courts to direct the number of boats and hands,	158	Trustees to levy, annually, money to repair streets and market house,	318
Men attending ferries to be free from levies, musters, &c.	159	How same to be collected and accounted for,	318
Owners of ferries to give bond and surety,	158	Nuisances, power of trustees to remove,	318
Rates of wheel carriages, tobacco, cattle, &c.	158	To make rules respecting the erection of houses,	318
Penalty for taking greater rates than allowed,	158	Hogs not to run at large in, under penalty,	318
Public expresses to be ferry free,	159	FINES.	
Penalty on other persons taking ferriage,	159	When not to be remitted by the executive,	9
		To be assessed by juries,	25
		Not to be imposed by sheriffs, &c. for default of common summons,	25





## FIRE ARMS.

Not to be kept or carried by negroes or mulattoes, unless specially permitted, 123

## FISH.

See *Rivers*.

Inspectors of, courts to appoint, 371  
their duty, allowance, &c. 371

Penalty for neglect of duty, 372  
Fish to be of one kind and inspector not to pass any such, unless of good quality, 372

Penalty of persons selling fish in casks of smaller gauge than prescribed, 372

Vendors or exporters of fish to identify the same, on oath, 373

Penalty in taking false oath, 373

Fines on master and mariners for receiving uninspected fish on board their vessel, &c. 373

Gauge, materials of cask, and number of hoops to be put thereon, 371. 373

Fines, how and for whose use recoverable, 373

## FLOUR.

Casks to be weighed, and tare marked thereon, 229

Penalty for false tare, 229

How recoverable, 229

Commonwealth's part, how to be collected and accounted for, 229

Penalty on inspectors failing to render accounts of penalties, received, 229

Inspection of flour established at Urbanna, 311

## FORCE AND ARMS.

Words "force and arms," not essential in indictments, 24

## FORCIBLE ENTRY AND DETAINER.

Lands or tenements not to be entered or holden with force, 77

Offenders to be arrested, 77

No warrant of forcible entry and detainer, &c. to be granted, but on oath or affirmation, 77

Persons charged to have notice of time and place of taking the inquisition, 77

Justices to enquire by jury of the force, and to cause to be resealed the lands so entered or holden, 77

How the jury shall be summoned, 78

Penalty on sheriff for neglect, 78

Mayors, aldermen and sergeants to have the same power as justices and sheriffs, 78

Restitution not to be made, if the party indicted hath had three years possession, 78

To be stayed till that be tried, 78

Costs and damages to be paid by party indicted, if it be found against him, 78

Tenants for years or by *elegit*, to have the same remedy, as tenants of freehold estates, 78

FORD, (JOHN, *a murderer*.)

Sum of money allowed to the apprehenders of, 331

## FOREIGN ATTACHMENTS.

See *Attachments*.

## FOREIGN DEEDS AND INSTRUMENTS.

How must be authenticated, to be admitted as evidence, 88

## FORFEITURES.

Goods of criminals not to be seized until forfeited, 25

## FORGERIES, &amp;c.

To counterfeit current coin, or to make or to pass base coin, felony without clergy, 182

To forge any deed, will, bond, note, receipt &c., 182

To forge any certificate or warrant issued by authority of the United States or this state, 182

To forge the stamp or receipt of any inspector of flour or hemp, 183

Of any inspector of tobacco, 183

To forge any land warrant, 183

To counterfeit the seal of register of the land office, 183

To forge or counterfeit, or assist in forging or counterfeiting, any deed, will, bond, bill, note, acquittance or receipt, or assignment of any bond, &c. 303

Or to utter or publish as true any such forged or counterfeited deed, will, &c. 303

## FORM PLUPERIS.

Poor persons may sue out original writs, &c. without paying therefor, 169

The court shall assign them counsel, 169

When-plaintiffs not to pay costs, 169

## FORNICATION.

What proof essential to conviction, 193

How punished, 193

## FORTHCOMING BONDS.

See *Executions*.  
When may be taken, and proceedings thereon, 212, 213

## FOWLING.

See *Hunting*.

## FRANKLIN.

Town of, in the county of Pendleton, established, 322

## FREDERICKSBURG.

Corporation court of, when to be holden, 377

## FREDERICK COUNTY.

Overseers of the poor of, and for the borough of Winchester, incorporated, 403

Certain proceedings of, legalized, 403

## FREE NEGROES AND MULATTOES.

Not to migrate into this state, 239

How they may be apprehended, and sent out of the state, 239

Penalty for bringing them into the state, 239

Free negroes and mulattoes residing or employed in any city, borough or town, to be registered and numbered, and each of them annually to procure a certificate thereof, 238

Penalty for employing them without such certificate, 238

Magistrates may commit those to gaol, who neglect to procure such certificates, 238

Free negroes, &c. in the country, not to go at large, or hire themselves out, without being registered, 238

Penalty for employing them without certificate of register, 238

To renew their certificates once in three years, 238





On failure to do so, may be committed to gaol,

### FRONTIERS.

Executive authorized to adopt measures for the protection of, 201, 202, 253.

### FUGITIVES FROM JUSTICE.

Citizens of this commonwealth committing certain crimes in foreign nations, and fleeing to this commonwealth, may be apprehended and given up to such nations, 187

Committing certain crimes in any country in amity with the United States, may be tried and punished, as if the crime had been committed within this commonwealth, 188

Examining court, time of holding in such cases, 186

When prisoner may be bound to his good behaviour, though acquitted, 188

## G

### GAMING AND GAMESTERS.

All promises, agreements, securities and conveyances for gaming debts, void, 106

Real or personal estate under any incumbrance for gaming debts, shall devolve to the next heir, 107

Money lost at gaming, when and how it may be recovered from the winner, 107

By the loser, or by any other person, 107

The winner compellable to answer on oath, bills in equity for discovering what was won, 107

In such cases, discharged on repayment thereof from the penalty, 108

Penalty for playing in ordinaries and other public places, 108

For losing or winning more than twenty dollars in twenty-four hours, by playing or betting in any place, 108

Gamesters having no visible means of supporting themselves, may be bound to good behaviour or committed, 108

Penalty on persons assaulting or challenging others on account of money, &c. won by gaming, 109

Cheats, how punished, 109

Appeal allowed from the judgment of the justice to county court, 109

Keepers of A. B. C. or E. O. tables or faro banks, &c. to be deemed vagrants, 109

Their tables to be destroyed, 109

Private lotteries prohibited, 109

Act to prevent unlawful gaming to be given in charge to grand juries, 110

### GAOLER AND GAOLS.

Method of turning over prisoners by the sheriff to his successor, 47

Guards for securing prisoners in gaol, when sheriff may impress, 47

Corporation courts empowered to levy money for building gaols, pillories, &c. 235

Persons arrested by the marshal of the U. States, or by any of his deputies, in what gaols to be confined, 357

### GENERAL ASSEMBLY.

See *Assembly*.

### GENERAL COURT.

Special jurisdiction in cases of offences committed by citizens against the commonwealth, or her citizens out of the jurisdiction thereof, 188

### GERMANTOWN.

Town of, in the county of Prince Edward, established, 425

Trustees appointed, 425

Their powers, 426

Vacancies, how supplied, 426

Lots when and how to be sold, 425

Privileges of purchasers, 426

Lots forfeited, if not built on, 426

### GLEBE LANDS

Of the parish of Tilletson, in county of Buckingham, to be sold, and purchase money applied by overseers of the poor to the use of the parish, 311

### GOLD.

See *Coin*.

### GOOD BEHAVIOUR.

Surety for, may be demanded of persons of evil fame by conservators of the peace, 10

Of gamesters having no visible means of supporting themselves, 108

### GOOSE CREEK.

Enoch Francis authorized to build a toll bridge over—Rates, &c., 430

### GOVERNOR.

Oath of, 3

### GOVERNOR'S HOUSE.

Sum of money granted for repairing, 338

### GRAND JURIES.

Grand jurors must be citizens, 234

Qualification of grand jurors, 17

Who not disqualified to serve as grand jurors in district courts, or in the general court, 363

To be summoned to every district court, 17

Penalty on sheriff failing to summon a grand jury, 19

Bystanders, when to be summoned, 17

Duty of grand jurors, 17

To be summoned to every quarterly term of county and corporation courts, 18

Their duty, 18

Oath of foreman, 18

Oath of the other jurors, 18

Inhabitants of corporate towns not to act as county grand jurymen, 18

Penalty on not attending when summoned as a grand juror, 19

Privileged from arrest, 19

Others may be sworn in the place of grand jurors failing to attend after they are sworn, 19

Offences presentable by grand jurors of county and corporation courts, 18

Presentments, rules in making, 19, 363

Presentments in the county and district courts, where the penalties do not exceed certain sums, how prosecuted, 18

Act for regulating ordinaries to be given in charge to grand juries, 142

### GRANTS.

See *Land Office*.



<b>GRAY, (WILLIAM, &amp;c.)</b>		
Warrants to issue to, for certain sums of money, with interest thereon,	336	Guardians of infant trustees, how they may execute the trust, 106
<b>GRAYSON.</b>		Guardians of infant lessors and lessees, 106
Boundaries of the county of,	315	Jurisdiction of corporation courts as to guardians and wards, 106
Lands granted to Peter Jefferson, &c., who shall be entitled to settlement and pre-emption rights of,	326	Power of statute and testamentary guardians to lease their wards' lands, 299
Commissioners appointed, &c.,	327	Testamentary guardians may, by order of the court of chancery, execute such deeds as their wards could, if of age, 299
Their powers and duties,	327	And, they are vested with the same power as statutory guardians, to receive surrenders of leases, and to make others, 300
To send to the executive a list of the certificates, and a duplicate thereof to the county surveyor,	327	Courts, in passing guardians' accounts, may make them a reasonable allowance, 300
Their allowance,	327	When court may direct part of an orphan's estate to be sold for his support, 300
To account for the money they receive,	327	Courts may direct overseers of the poor, in binding out orphans, to covenant for the payment to the apprentice of any sum not exceeding twenty dollars, 300
Party obtaining a certificate for one hundred acres, what to pay,	327	<b>GUARDS.</b>
Land to be surveyed within six months,	327	When sheriff may impress, to secure criminals in gaol, 47
Grants, what to express,	327	<b>GUY, (GEORGE.)</b>
<b>GREEN, (ANDREW.)</b>		Auditor to issue a warrant for the repayment of money to, 416
Replaced on pension list, and arrears to be paid,	277	
<b>GREENBRIER AND KANAWHA.</b>		<b>H</b>
Dividing line between, ascertained,	358	<b>HABEAS CORPUS.</b>
<b>GUARDIANS.</b>		By whom granted, 162
Fathers, by deed or will, may dispose of the custody and tuition of their infant children,	103	Penalty on judges refusing to grant, 162
Powers of such guardians,	103	How obtained, 160
Jurisdiction of the high court of chancery, county and corporation courts,	104	By whom signed, 160
Guardians to give bond and surety,	104	When and before whom returnable, 161
Unless in case of testamentary guardian it is otherwise directed by the will,	298	Duty of officers and others to whom they are directed, 160
Proceedings on their failure to give security,	104, 298, 299	Charges of conveying the prisoner before the judge, &c. to be tendered to the officers, 160
Curator of infant's estate, when to be appointed,	104	Penalty on officer disobeying the writ, &c., 161
Security, supplemental, when guardian may be compelled to give,	104	How prisoner, when brought before the judge, shall be discharged, 161
Sureties for guardians in danger of suffering, how may be relieved,	105	No person to be again committed for the same offence, after a discharge on <i>habeas corpus</i> , 161
Guardians to deliver inventories of their wards' estates,	104, 298	When writs of <i>habeas corpus</i> shall not be granted in vacation, 161
To exhibit their accounts to the court yearly, or oftener if required,	104, 298	<b>HALIFAX COUNTY.</b>
To be examined, and if approved, to be recorded,	104, 298	Inspection of tobacco established on Hopson's land in, 253
Exceptions thereto, how to be made,	104, 298	<b>HAMILTON, (GAWIN.)</b>
On failure to deliver in inventories and accounts, how proceeded against,	105, 299	Land warrants to be issued to, 277
Penalty on the justices for neglect,	105, 299	<b>HAMPDEN SYDNEY ACADEMY.</b>
When testamentary guardians may be displaced by the court, and others appointed,	298	Certain lands vested in, 315
Balance due guardian for disbursements, to be debited in the account of the ensuing year,	105, 299	<b>HAMPTON, (Town of.)</b>
Balance due ward, how to be disposed of,	105, 299	Trustees of, appointed, 323
On death of guardian, debt due ward to be first paid,	105, 299	<b>HANOVER COUNTY.</b>
Guardians, with the approbation of the court, may bind out their wards as apprentices,	105	Days whereon courts of, are to be holden, 377
When apprentices may bind themselves to serve until they arrive to the age of twenty-four,	105	<b>HARRIS, (THOMAS.)</b>
		To be placed on the pension list, and immediate relief granted, 278
		<b>HELM, (ACHILLES.)</b>
		Certain lands to be conveyed to, 416





HERBERT, (PASCOW AND THOMAS.)		Vacancies, how supplied,	266
Certificates to be issued to, by auditor of public accounts,	282	Privileges of owners of lots,	266
HERBERT, (THOMAS.)		HOTCHPOT.	
Sum of money granted his widow for her immediate relief,	332	Advancements must be brought into hotchpot to entitle the party to share the distributable surplus,	93
HILL, (ANN.)		HUE AND CRY	
To be placed on pension list, and immediate relief granted,	278	To be levied of murders, burglaries, &c.,	51
HOG STEALING.		HUNTING AND RANGING, &c.	
Punishment of, not being slaves, for the first offence,	110	Penalty for hunting, fishing or fowling within the lands, &c. of another,	78
Defendant, when sued for the penalty, may be ruled to give special bail,	110	How recovered,	78
Punishment for second offence,	110	Offender liable also to action at common law,	79
When there are several offenders in one fact, each liable to punishment,	111	On third conviction, the offender, besides paying the penalty, shall be bound to his good behaviour or committed,	79
On conviction of servants, penalty to be paid by their masters, and refunded by the servants,	111	Conviction of such offence, after security given, shall be a breach of good behaviour,	79
Punishment of slaves for hog stealing,	111	Fire hunting, penalty for,	151
For the first offence,	111	HURST, (THOMAS.)	
For the second,	111	Auditor to issue a duplicate certificate to,	419
For the third,	111		
Punishment of negroes, mulattoes or Indians, for false swearing on such trials,	111	I	
Bringing home, or carrying on board any vessel, hogs without ears, to be deemed hog stealing, unless party proves his property,	112	IDIOTS.	
Indians' hogs to have the mark of their town,	112	See Lunatics and Idiots.	
HOOMES, (JOHN, and others.)		IMPEACHMENTS.	
Exclusive privilege granted of conveying persons in stage carriages for a certain period,	417	Process in,	16
HORSES.		Copy of articles to be delivered to the party accused,	16
Penalty for suffering a stoned horse to run at large,	162	Court may hasten the issue and trial,	16
After second conviction, the person taking him up may retain him to his own use,	162	None to be found guilty but by a jury,	17
HORSE RACING.		Jury, how summoned,	17
Trustees of unincorporated towns authorized to prohibit horse racing in the streets, and to impose a penalty thereon,	412	Party impeached may challenge jurors,	17
HORSE STEALING.		May have counsel,	17
How punished,	113	How punished, if found guilty,	17
Accessories,	113	No impeachment to be tried during the session of the assembly,	17
How punished, though principals be not convicted,	113	IMPRESSMENTS.	
Reward for apprehending a horse stealer,	113	Officers and others making illegal impresses, to be apprehended and secured until discharged by due course of law,	166
Legal representatives of persons killed in endeavouring to apprehend horse stealers, to receive reward,	113, 114	INCEST.	
HOSPITAL, (Marine.)		Marriages within certain degrees to be annulled,	133
Taxes for support of, in Washington, in the county of Norfolk, imposed on all sailors coming into certain ports of this commonwealth,	307	Attorney general's duty when informed of any such marriage,	133
When and how to be collected,	307	INCLOSURES.	
Collectors to give bond and surety for collecting and accounting therefor,	307	What a lawful fence,	189
To render accounts thereof quarterly to the treasurer,	307	How it shall be viewed,	189
Their commissions,	307	INDEMNIFYING BOND.	
HOT BATH.		When sheriff may demand one of plaintiff before sale of property taken in execution,	214
Town of, established at the Hot springs, in the county of Bath,	266	INDIANA COMPANY.	
Trustees, and their powers,	266	Decision of the legislature in 1779, on the claims of, definitive,	284
		INDIANS.	
		Tributary Indians not to sell their lands to any other than persons of their own nation,	166
		Penalty for purchasing or occupying their lands,	166
		Indians' rights and privileges to be secured to them,	167



Nottoway tribe of, trustees respecting, authorized to sell and convey a certain tract of land, 274

### INDICTMENTS.

See *Informations*.

Process against persons indicted for treason or felony, not in custody, 22

Prisoner to have a copy of indictment and pannel, 22

Addition of defendant's estate or degree, &c. in indictment, 24

Words "*force and arms*" not essential, 24

Not to be quashed, or judgment thereon reversed, for omission of any parish or town, 24

### INFANTS.

See *Guardians*.

May sue by their next friend, 106

### INFORMATIONS.

For trespass or misdemeanor, rules respecting the filing of, 24

When defendant shall recover costs thereon, 25

### INJUNCTIONS.

On defendant obtaining an injunction to execution, money levied to be restored, 218

### INLAND BILLS.

See *Bills of Exchange*.

### INOCULATION.

See *Small Pox*.

### INQUESTS.

See *Coroner—Escheator*.

### INSOLVENT DEBTORS.

How may be discharged from imprisonment, 219, 200

Oath of, 219

By whom discharged, 220, 290

Effect of, as to rights of creditors against their persons, or after-acquired property, 220

How debtor's estate disposed of, 220

His credits and effects, how recovered, 220

Insolvent's prison fees to be paid by the creditor whose execution is first served, 221, 222

But may afterwards be recovered of debtors, 221

### INSPECTORS.

See *Tobacco*.

### INSURRECTION.

Punishment of negroes or slaves for consulting, advising or conspiring to make insurrection, 125

### INTEREST

On protested bills of exchange, 35

### INTERPRETERS.

When necessary, to be sworn, 33

### INTESTATES' ESTATES, (*Personal*.)

When distribution of, to be made, 97

Distributees, 93

Husband not bound to distribute wife's personal estate, 93

Advancements must be brought into hotchpot to entitle the party advanced to share the distributable surplus, 93

Personal estate, under incumbrance for gaining debts, to go as in cases of intestacy, 107

Slaves of intestate may be sold where an equal division in kind cannot be made, 129

### INTESTATES' ESTATES, (*Real*.)

To descend in parcenary to their kindred, 99

Course of descents, 99

None but children of intestate to take unless in being at intestate's death, 100

Rule where the inheritance is to go by moieties to the *paternal* and *maternal* kindred, 100

Rule where some are of the *whole*, and others of the *half* blood, 100

Rule where they shall take *per capita*, 100

Rule where *per stirpes*, 100

Children advanced may bring the estate into hotchpot, and come into partition, 100

Alienage of an ancestor no bar in making title by descent, 100

Bastards capable of inheriting and of transmitting inheritance on the part of the mother, 100

When bastards shall be legitimated, 101

Issue of marriages null in law, legitimated, 101

When lands of intestate may be sold, 101

Real estate, under any incumbrance for gaming debts, shall devolve to the next heir, 107

Estates of persons dying insane, how to be disposed of, 165

What portion of father's estate shall be allotted to children born after the making of their father's will, in which they are pretermitted, and not provided by settlement, 303

### INVENTORIES.

See *Appraisements*.

When sufficient, without appraisement, 95

Inventories and appraisements, to what extent evidence for or against executors or administrators, 95

## J

### JAMES RIVER COMPANY.

Farther time of six years allowed to, for completing the navigation, 242

Treasurer to advance a sum of money on each share belonging to the commonwealth, to be reimbursed out of the tolls, 375

Treasurer authorized to transfer two shares belonging to the commonwealth to the governor, &c., 433

### JAMES, (WILLIAM.)

Land warrant to be issued to, 276

### JEFFERSON.

Town of, established in the county of Powhatan, 319

Trustees appointed, 319

Vacancies, how filled, 319

Lots, when and how to be sold, 319

Power of trustees to make rules regulating buildings, 319

Privileges of owners of lots, 319

### JEOPAILS.

Judgments not to be reversed for certain defects in process or pleadings, 32

On general demurrer, what defects to be regarded, 33

Exceptions to declarations in ejectment, when to be made, 33





Where one of several counts is faulty, and general damages are given, the verdict shall stand,

### JOINT TENANTS.

Joint tenancy may be pleaded in abatement,

Plea must be sworn to,

Penalty if plea be false,

### JOINTURES.

See *Dower*.

### JONES, (BRITTON.)

Certificates to be issued to, by auditor of public accounts,

### JONESVILLE.

Town of, in the county of Lee, established,

### JORDAN, (MICHAEL.)

Placed on the pension list, and immediate relief granted,

### JURY.

See *Grand Juries—Petit Juries and Venire Men*.

Juries *de medietate linguae*, when may be directed,

Penalty on a juror taking any thing for his verdict,

Who may be summoned as jurors in James City county,

Juries for trial of criminals sent on by examining court, how formed,

Who not a competent juror in such cases, Jurors, how challenged by prosecutor for commonwealth,

How many may be peremptorily challenged by the prisoner,

Consequence of challenging more than he legally may,

### JUSTICES OF THE PEACE.

When executive may appoint without recommendation,

Suits against, for fines, how brought,

## K

### KENTUCKY.

Executive directed to communicate with the governor of Kentucky respecting the boundary line between that state and this commonwealth,

### KINSALE.

Farther time allowed owners of lots in town of, to build thereon,

## L

### LANCASTER, (*County Court of*.)

Bounds of land granted by Edwin Conway to, established, and part thereof vested in Job Carter,

### LAND OFFICE.

Register of, how appointed and qualified, Tenure of office,

To give bond, &c.

Vacancy during recess of assembly, how supplied,

Copies of records and of office documents attested by him, as good evidence as the originals,

When register of, may appoint two clerks to be paid by the public,

Grants to be issued by the register on plats returned in time of his predecessor,

Grants of land to issue from the land office,

Title to waste land, how and on what terms acquired,

Foreigners may locate and survey lands,

Certain lands not to be granted,

Consideration money for lands forfeited for nonpayment of taxes,

Warrants for surveys,

Notes and references to be made by the register in the margins of the record books containing the warrants and grants,

Surveyors, how nominated, examined and commissioned,

When the court is divided in the recommendation, high sheriff to vote,

Tenure of office,

How qualified,

Deputy surveyors, how appointed,

How removable,

Who disqualified,

Their power and emoluments,

Penalty for giving to their principals a greater part of the profits than allowed,

Surveyors, where to reside,

How punishable for neglect of duty,

Their offices to be annually inspected,

Penalty on refusing to produce or deliver up their books when required by the court,

Not to withhold plats from their owners,

Exception,

Their fees, one sixth of, appropriated to William & Mary college,

One sixth of fees received in certain counties, Monongalia, &c. appropriated to the Randolph academy,

Entries on the eastern waters, how they may be made where there is no surveyor,

Land warrants to be lodged with the principal surveyor,

No entry to be made without a warrant from the register, or a certificate from a surveyor,

Locations to be precisely made and entered in a book,

Preference, where simultaneous applications to locate,

Notice to persons out of the county of time of surveying,

How surveyor may locate his own warrants,

Surveys of located lands, when and how to be made,

Magnetic needle, variation of, to be expressed in plats of surveys,

Penalty on failure to express, and how recoverable,

Surveyor may direct a deputy to survey,

Chain carriers to be sworn,

Surveys to be closed, lines marked, and length and breadth proportioned,

Plats and certificates, when to be delivered,

No plat to be delivered within a year, but to the owner, unless a  *caveat*  be entered,

Penalty,





Plats, &c. to be examined and entered in the book of the principal surveyor,		And also persons under legal disabilities,	77
Plats of surveys to be returned into the land office within twelve months,	70	Penalties, how recovered,	77
<i>Caveats</i> , proceedings thereon,	70	Surveys on eastern waters, farther time allowed for returning,	232
Affidavit to be filed by the caveator,	71	On eastern and western waters, 296, 297.	374
Caveats to be dismissed, if the summons be not served or not returned,	71	Rights of others saved,	297
When caveats are not to be entered,	71	Surveys on land warrants not returned in time, may be caveated,	297
Lists of caveats dismissed or determined, to be sent to the land office,	71	But may be received after the time has expired, where no caveat is entered,	297
When a caveat is established, the fees paid by caveator to be paid to the person returning the survey,	71	Kentucky, title papers to lands in, to be delivered by the register to the agent of that state,	234
Warrants and certificates of survey transferable,	72	Agent authorized to take copies of records respecting lands in that state, and of the commissioners' books, which shall be attested by the register,	234
Plats of surveys on which grants may issue, to be recorded,	72	The third section of the act of 1783, ascertaining the mode of obtaining grants to certain lands on the western waters, <i>repealed</i> ,	304
Grant, form of,	72	Lands held under, not to be forfeited for nonpayment of purchase money,	304
To be signed, sealed and recorded,	72	Register inhibited from receiving certain surveys,	361
If made to heirs or assignees, material circumstances of the title to be recited,	72	Warrants to accompany surveys,	361
Rights of pre-emptions of infants, <i>femes covert</i> , &c. to swamps, &c. contiguous to their high lands,	72	Surveyors not to receive entries, &c. on certificate of another,	361
Surplus lands within the bounds of patents, how grants therefor to be obtained, <i>Proviso</i> for the relief of landholders unjustly vexed,	73	Register to issue grants to assignees of surveys, the assignment being attested,	361
Mistakes in bounds how rectified,	73	New record books to be opened,	361
Inclusive patents, how obtained,	73	Salary of register,	361
Land office to be examined by two or more persons appointed by the general court, once in every year or oftener, and certain warrants to be cancelled,	74	Executive to employ a sufficient number of clerks,	361
All original warrants to be filed with the title papers,	74	Their compensation,	361
Plats on which surveys have issued to remain in the office,	74	Procedure in locating lands, forfeited for the nonpayment of taxes,	362
When and how the register shall account for the fees received,	74	Processioners, how appointed and paid, &c.	362
Fees to be paid on receipt of the plat into the office,	74	Tract of land lying in two precincts to be processioned, where the beginning shall be,	362
When a new county is formed, copies of entries for lands therein to be delivered to the surveyor thereof, by the surveyor of the former county,	75		
Bounds of lands to be processioned every fourth year, beginning in 1795,	75	LAND WARRANTS.	
Processioners,	75	See <i>Land Office</i> .	
Penalty on court failing to appoint,	75	To be issued to William Smith,	276
On the person appointed failing to act,	76	William James,	276
Their allowance,	75	John Fergusson,	276
Penalty on the clerk of the court failing to perform the duties assigned him,	76	Gavin Hamilton,	276
On any other person,	76	John Parr,	276
Penalties how recovered and appropriated,	76	Duplicate land warrant to be issued to Gilbert Combs, &c.	277
What a sufficient excuse,	76	LARCENY.	
Bounds processioned three times shall never be altered,	76	Of land warrant, how punished,	183
Former processioners confirmed,	76	Any loan office certificate of the United States, or of any of them, or any warrant of the governor or auditor for payment of money,	184
How disputed bounds shall be laid out, where the parties refuse to have their lands processioned,	76	LATHRAM, (ROBERT.)	
Where the lands lie in two or more counties,	76	Auditor to issue a warrant in favor of,	418
Heir in reversion or remainder may within six years after the death of the tenant for life, controvert the bounds,	77	LAWS.	
		See <i>Acts of Assembly</i> .	
		Governor requested to propose to the executive departments of the several states, the annual interchange of the laws passed by the respective states,	433, 434
		LEESBURG.	
		Trustees of, to be elected annually by the inhabitants,	423
		Trustees to act under oath,	423
		Their powers and duties,	424



LEFTWICH, (WILLIAM.)		LOAN OFFICE.	
Auditor to issue a warrant in favor of,	418	Duplicate certificates to be issued to Wil-	
LEWIS, (HOWEL.)		liam Thomas,	276
The petition of, reasonable, and register of		LOCATIONS.	
land office directed to issue to him a		To be precisely made and entered in a book,	
warrant for land, in consideration of the		LOTTERIES.	
services of his father col. Charles Lewis,	433	Private, prohibited,	
LEWISBURG.		LUMBER.	
Farther time allowed purchasers of lots		Inspectors of, to be appointed,	167
to build thereon,	423	How qualified,	167
LIMITATION OF ACTIONS.		Their fees,	168
On penal statutes,	26	Staves and heading, dimensions of,	167
Real actions,	27	Of shingles,	168
Formedon in descender, &c.	27	Plank, scantling, &c. to have square edges,	163
Right of entry,	27	Lumber not to be exported until inspect-	
Saving in favor of infants, &c.	27	ed, and certificate obtained,	163
Writs of right, and other actions possessory,	27	Vessels not to be cleared until the masters	
Trespass, detinue, trover and other perso-		produce such certificate, and make oath	
nal actions,	27	that they have no other timber on board,	163
Saving in favor of infants, nonresidents, &c.	29	Penalty for exporting it without so doing,	163
Exception as to nonresidents bringing suit		LUNATICS AND IDIOTS.	
for goods sold by their factors,	29	Insane persons, how and by whom to be	
Scire facias on debt on judgments,	27	examined, and how disposed of,	163
Of right to sue out new executions, or to		Two guards allowed for removing an in-	
move against the sheriff,	27	sane person to the hospital,	165
Saving in favor of infants, &c.	28	Justices to send with the insane a certifi-	
Store accounts,	23	cate of his estate,	163
Date of the delivery of the articles to be		Infants insane, how examined,	164
specified in store accounts,	23	Committees to be appointed to manage	
Penalty for post dating such accounts,	23	estates of insane persons,	163
Limitation to be computed from the re-		To give bond and surety,	164
spective dates or delivery of the articles,	23	Penalty on justices for neglect,	164
All items of more than one year's stand-		Profits of insane's estate to be applied to	
ing, at commencement of suit, to be re-		the support of them and their families,	164
jected, and verdict or judgment given		Committees of nonresident insane, how	
only for the articles delivered within the		appointed,	164
year,	23	Committees of insane persons seized of	
Within what time action may be recom-		lands in trust, may execute such deeds,	
menced, where judgment is arrested or	23, 29	&c. as the trustees could if of sound	
reversed,		mind,	165
Certain periods not to be estimated in the		Estates of lunatics not sent to the hos-	
computation of time,	29	pital, to be kept as the estates of those	
Defendants absconding or concealing		who are,	165
themselves, &c. not to have the benef-		Estates of persons dying insane, how to	
it of statute of limitations,	29	be disposed of,	165
Nor masters of vessels putting on shore		LUNATIC HOSPITAL.	
sick or disabled sailors or servants,	30	Directors of, incorporated,	162
Distress for rent, not to be made after five		Annual income not to exceed a certain sum,	163
years, due and in arrear,	61	Directors, how appointed,	163
In suits against executors or administra-		May choose a president,	163
tors on open accounts, duty of the court		President <i>pro tempore</i> , when may be	
to expunge all items due five years be-		chosen,	165
fore decedent's death,	97	Seven directors to form a court,	163
Penalty for post dating such accounts,	97	What shall vacate their office,	165
Within what time actions of debt against		Keeper, matron and nurses to be appointed,	163
executors or administrators on judgments		How insane to be received, examined and	
against their decedents, must be		registered,	163
brought,	98	When and on what terms they may be de-	
When writs of <i>scire facias</i> may be issued		livered to their friends,	163
against executors or administrators on		Or discharged, if directors do not think it	
judgments against their decedents,	98	necessary to confine them,	163
In suits against masters of vessels for car-		To be discharged, when cured,	165
rying servants or slaves out of the state		Expenses of maintaining and curing re-	
without owner's consent, defendant not		gistered insane, how defrayed,	164
allowed to plead any statute of limitations,	129	Hospital accounts to be audited, and dis-	
LIVERY OF SEIZEN.		charged as other public accounts,	164
See Conveyances.		Persons confined in hospital to be deemed	
LIVE STOCK.		inhabitants of the counties from which	
See Executions.		they were removed,	165





## LYNCHBURG.

Three years allowed for improving the lots,

## M

## MADILL, (ALEXANDER.)

Duplicate of a certain certificate to be issued to,

## MADISON COUNTY COURT.

Certain proceedings of the court declared as valid as if the magistrates had been duly qualified,

## M'COLLEY, (JOHN.)

A sum of money to be paid him,

## M'FARLAND, (ALEXANDER.)

To be paid for his services as a scout on the frontiers,

## MAGNETIC NEEDLE.

Variation of, to be expressed in plats of surveys,

## MAIMING AND DISFIGURING.

By cutting out or disabling the tongue, putting out an eye, slitting the nose, &c., how punished,

## MANIFEST.

See *Tobacco*.

## MARINE HOSPITAL.

See *Hospital, Marine*.

## MARRIAGE CONTRACTS.

How, when and where must be acknowledged or proved, and recorded,

## MARRIAGES.

No person shall be married without license or publication of bans,

Penalty on ministers marrying without,

Bans, by whom may be published where there is no minister,

Penalty for granting a false certificate of bans being published,

How bans may be published on the western waters,

Marriage licenses, how issued,

When either of the parties is an infant,

Penalty for issuing or signing a license contrary to law,

Rites of matrimony to be celebrated by ministers according to the forms of their church,

Testimonials of their authority to solemnize marriages, how and on what terms obtained,

Form of,

Not to be granted to itinerant ministers,

Sureties of ministers, how may be relieved,

Quakers, &c. may solemnize marriages in the manner heretofore practised,

Certain marriages solemnized by magistrates confirmed,

Fee for marrying,

Register of marriages,

Incestuous marriages to be annulled,

Attorney general's duty when informed of such,

In what cases a *feme* of twelve years and under fourteen, shall forfeit her inheritance by marrying,

Penalty for publishing bans, or marrying any servant, without master's consent,

Penalty on the servants, and on the free persons marrying them,

White persons marrying negroes or mulattoes, how punished,

Penalty on ministers marrying a white person to a negro or mulatto,

Felony to take any woman against her will,

Unlawfully taking a *feme sole* under sixteen years of age, from her father, mother, or others having the care of her, how punished,

Deflowering or marrying such *feme* so unlawfully taken, how punished,

Fines, how appropriated,

Certain acts still in force,

Courts of the counties of Lee and Randolph authorized to appoint persons to celebrate the rites of matrimony in their respective counties,

Certificate to be given to them,

Vacancies, how supplied,

Not to marry without publication of bans, or a license,

Subject to same penalties for breach of duty, as ordained ministers,

To be allowed same fees,

To return to the clerk's office certificates of the marriages celebrated by them,

## MARTINSBURG.

Trustees of, to erect and regulate a market therein,

## MARTINSVILLE ACADEMY.

Trustees of, incorporated,

Their powers and duties,

How many to constitute a board, and number necessary to authorize disposal of estate belonging to the academy,

Vacancies, how supplied,

Treasurer to be appointed,

How delinquent treasurer proceeded against,

## MARYSVILLE.

Town of, established at Seneca mills, in the county of Campbell,

## MASTERS OF VESSELS.

Penalty on their carrying servants or slaves out of the state without consent of owner,

May be held to special bail in suits for penalty,

Not allowed to plead the statute of limitations,

In suits for penalties for violating act concerning ballast, &c., they may be held to bail,

## MATHEWS, (THOMAS.)

Auditor to issue a certificate to, for property destroyed in the borough of Norfolk,

## MATILDAVILLE COMPANY

To construct a toll road from the Great falls of the Patowmac to Alexandria, incorporated, on a certain number of shares being taken,

When tolls may be received,

Rate of,



## MEAL.

Inspectors of flour to be appointed inspectors of Indian meal,	369
Miller to keep a brand mark, and mark on each cask of meal the nett weight,	370
Materials and dimensions of, and quantity of meal to be put into each barrel,	370
Penalty for putting into any barrel a smaller quantity,	370
Rate of inspection,	370
Exportation of uninspected meal prohibited,	370
Penalty on persons exporting such meal,	370

## MECKLENBURG.

Trustees of the town of, in the county of Berkeley, to be annually elected,	270
How qualified, their powers and duties,	270
Fines and penalties, how recoverable,	271
Trustees to deliver the unappropriated moneys in their hands to their successors,	271
Quarterly courts of Mecklenburg county, when to be holden,	377

## MECOM, (JOHN.)

Auditor of public accounts to issue a certificate to the representatives of,	417, 418
--	----------

## MERIDIAN.

See *Surveys.*

## MIDDLETON.

Town of, in the county of Frederick, established,	322, 323
---	----------

## MILITIA.

General officers, how commissioned,	207, 342
County and corporation courts to recommend officers,	203, 342
Penalty for neglect,	203
Vacancies, how to be supplied,	203
So much of the act of 1792 as authorizes the adjutant general to convene the inspectors of brigades to receive instructions, repealed,	204
Commissioned officers to be trained and instructed,	204
Penalty on officers failing to attend,	204
Seventh section of act of 1792 repealed,	204
Fines on noncommissioned officers and soldiers for not attending musters,	204
Fines and penalties on infants and apprentices to be paid by the parent, guardian or master,	204, 354
Company musters, when, and how many,	204
Training in frontier counties, when may be dispensed with,	204
List of fines, when to be delivered to the collectors,	204
Millers and ferryman exempt from militia duty,	204
Quakers and menonists exempted from actual service, on their furnishing a substitute,	204, 205
Division of the militia into regiments and battalions,	205
Number in each company,	205
Farther time allowed for forming battalion and company districts,	205
Part of act of 1792, respecting light companies, repealed,	205

Ages of persons enrolled, rule respecting the ascertainment of,	205
Respecting enrolling militiamen removing out of the bounds of their companies,	206
Money arising under the militia laws, how to be appropriated,	206
Pay, &c. of the militia enlisted for fixed periods,	206
When employed by water,	206
<i>Patrollers</i> , how to be appointed,	206, 353
Their duty and pay,	207
Laws respecting the militia to be furnished to the officers,	206
Acts regulating the militia reduced into one,	341
Counties composing brigades and divisions of militia,	341
What counties shall form one or more regiments or battalions, and where containing a battalion only, what counties shall be united in order to form a regiment,	342
General officers, how appointed and commissioned,	342
Certain field officers of artillery and cavalry to be appointed and commissioned,	342
Field, and officers of inferior rank to be recommended by county and corporation courts,	342
How to be commissioned,	343
Vacancies, how supplied,	343
Officers not recommended by the courts, to become supernumeraries,	343
Oath of officers,	343
Executive to number divisions, brigades and regiments, and cause the same to be registered in the office of the adjutant general,	343
Counties, how to be laid off into districts for forming battalions and companies,	343
Captains to cause their companies to be classed into divisions for the regular performance of duty,	343
Artillery, cavalry, grenadiers, light infantry and riflemen to be allotted into divisions,	344
Persons exempted from ordinary militia duty,	344
What persons shall be enrolled,	345
Officers necessary for companies of grenadiers, light infantry, riflemen and artillery, to be appointed by the executive,	345
Musters of artillery and cavalry, how often,	345
When officers thereof may sit in a court of enquiry,	345
Musters of the militia generally, when and how often, and how to be notified,	346
Regular returns of militia to be made,	346
Commanding officers of brigades may exempt the militia of the frontier counties from mustering in regiments and battalions in certain cases,	347
In case of the death of any officer, officer next in rank to succeed to the command,	347
Officers to meet to be trained by the brigade inspector annually,	347





- Rules of discipline as established by congress, to be printed and distributed among the several commissioned officers of the militia, 347, 348
- Officer guilty of misbehaviour on duty, to be arrested, 348
- Noncommissioned officers behaving amiss on duty, how punished, 348
- Bystanders guilty of misconduct at musters, &c., how punished, 348
- Forfeitures and penalties imposed for neglect of duty, 348
- Tribunals instituted for the trial of offences, as they are to be viewed in a military light, 349
- Battalion courts of enquiry for assessment of fines incurred in such battalion, 350
- Oath to be administered, 350
- Regimental courts of enquiry for the assessment of fines incurred by the officers of the regiment, 350
- Clerks and provost marshals to be appointed, 351
- Their duties and compensation, 351
- Fines assessed to be collected by the sheriffs of the respective counties, with power of making distress and sale, 351
- Fines how appropriated, 351
- Commandants of regiments to provide regimental and battalion colours for his regiment, and music for the several companies therein, 351
- Executive may call forth the militia to suppress invasions and insurrections, and appoint the requisite staff, 352
- Lieutenant colonel commandants of regiments, furnishing detachments, to procure wagon, team and driver, and certain camp utensils, 352
- In case of the nonattendance of necessary officers, executive to supply deficiency, 352
- Commanding officer may call out militia in certain cases, 352
- Militia in actual service to be governed by the articles of war, 353
- Patroles to be appointed, under penalty, and by whom, 353
- Officers of the patrol to make report, and such patrollers thereupon to be compensated, 353
- Penalty on serjeants failing to notify or attend, and on patrollers failing to attend, 353
- Adjutant general and brigade inspectors, their pay, 353
- Adjutant general's office, where to be kept, 353
- Brigade inspectors, penalty on failing to attend regimental musters, 353
- Resignations how made, and vacancies caused thereby supplied, 354
- Arms exempted from distress and executions, &c., 354
- Militia of incorporated towns governed as other militia, 354
- Fines on infants and apprentices, by whom to be paid, 354
- Lieutenant colonel commandants to appoint a regimental staff; duty of and allowance to the adjutant, 354
- Persons to be appointed and paid for the conveyance of orders relating to the militia, 354
- Act regulating the militia; act of congress and articles of war to be printed by order of executive, 354
- Drummers and fifers to meet when commissioned officers meet, and to be compensated, 354
- Small arms to be procured annually by the executive, 365
- Each company of artillery to be furnished with one field piece, 365
- MILL DAMS.**
- How owners of mills may obtain leave to raise their dams, 137
- Duty of owners of mill dams over which a public road passes, 138
- Locks and slopes in, how regulated, 138
- MILLS.**
- Method of proceeding where a person desirous of building a mill owns the land only on one side of the stream, 136
- Notice to be given to proprietor of the opposite land, 136
- Charge to the jury, 136
- Proceedings on return of inquest, 136
- Where the lands on both sides belong to the person intending to build, 137
- In what cases the court shall not grant leave, 137
- Where they may at their discretion, 137
- Party obtaining leave to pay the value of the land, and the damages to the persons entitled thereto, 137
- Applicant to begin and finish his mill within certain periods, 137
- Actions for damages not estimated by the jury, not barred by the inquest, 137
- Millers, duties of, 137
- Toll for grinding, 137
- Penalty for not grinding well, and in due time, or for taking more than legal toll, 137, 138
- Sealed measures and toll dishes to be kept by millers, 138
- When they shall not keep hogs at large at their mills, 138
- Locks and slopes in dams of mills already built, regulated, 138
- MINISTERS OF THE GOSPEL.**
- See *Marriages*.
- Duly licensed, not to be arrested on any civil process, while performing divine service, 192
- MONONGAHELA AND WEST FORK RIVERS.**
- Trustees appointed to receive subscriptions for clearing and improving, 242
- Vacancies, how supplied, 243
- How subscriptions may be recovered, 242
- Powers and duties of the trustees, 242
- Receivers to be appointed, 242
- To give bond and surety, 242
- How proceeded against for failing to pay the money received, 243
- Owners of mills to erect slopes in their dams and locks for the passage of boats, 243





Penalty for neglect, 243	Subscriptions to be opened, &c. 412
MONONGALIA RIVER.	Subscribers to examine plan, adopt rules, 413
Any person authorized to erect dams across, 329	&c. and elect officers, 413
for the purpose of building iron works, 329	Premiums to be defined, 413
Slopes to be constructed for the passage of boats and fish, 329	How funds may be employed, 413
MONSTRANS DE DROIT.	Insured to be compensated for losses, according to sum insured, 413
Lands escheated by, be claimed by, 52	In case of deficiency, repartition to be made among subscribers, 413
When may be had to an inquisition, 53	Quotas to be so rated, as that the interest thereon will pay annual losses, 413
MOORFIELD.	Penalty for neglecting to pay such quotas, 414
Four years allowed for improving the lots therein, 272	Ast, William F. author of the plan, to be allowed by company a certain sum annually, 414
MORTGAGES.	Company authorized to insure for individuals, 414
Must be recorded, otherwise void as to creditors, &c. 81	
MORGANTOWN.	
Additional trustees appointed; vacancies how filled, 272	
MOSELY, (WILLIAM.)	
A sum of money to be paid to him, 337	
MULATTOES.	
See <i>Negroes and Mulattoes.</i>	
MUSTERS.	
See <i>Militia.</i>	
MUTE.	
Prisoner standing mute, or peremptorily challenging more jurors than he legally may, or outlawed, to be deemed convicted, 23, 24	
MUTUAL ASSURANCE SOCIETY AGAINST FIRE ON BUILDINGS, &c.	
Established, 308	
Principles of insurance, 308	
Subscriptions, where and under whose direction they shall be opened, 308	
When three millions of dollars shall be subscribed, subscribers to meet in Richmond, and adopt rules for society, 308, 405	
And choose agents, 308	
Majority of the society may change the rules thereof, 309	
And thenceforth to be a body politic, 308	
Subscribers nor agents to be sued individually, 309	
Premiums of insurance, by whom to be fixed, 309	
To be kept as a fund for paying losses by fire, 309	
When the fund is deficient, the loss to be made good by the subscribers, and the property insured pledged therefor, 309	
Quotas, how ascertained and collected, 309	
Insured failing to pay, to lose his insurance until he complies, 309	
Premiums, how subscribers may be compelled to pay, 310	
For what premiums property liable to be sold, 406	
Purchasers and mortgagees to stand in the place of original subscribers, and their policies to be assigned to them, 309	
Ast, William F. author of the plan, how compensated, 309	
What duties may be required of him by the society, 309	
MUTUAL INSURANCE COMPANY AGAINST FIRE ON GOODS AND FURNITURE.	
Established, 412, 413	
	N
	NEGROES AND MULATTOES.
	Who shall be deemed slaves, 122
	Who mulattoes, 123
	Slaves to be deemed personal property, 123
	Gifts of slaves not valid, except by will or deed, if donor remains in possession, 129
	<i>Proviso</i> respecting former adjudications, 129
	In what cases negroes or mulattoes may or may not be witnesses, 123
	When slaves hereafter imported, shall be free, 122
	Penalties on importers of, and on the sellers and buyers, 122
	Certain cases excepted, 122
	Slaves not to go from home without passes, 123
	Coming on the plantation of others without leave from their masters, may be whipped, 123
	No person shall permit the slaves of others to remain on his plantation, 125
	Penalty for dealing with a slave without his master's leave, 124
	Penalty for suffering a slave to go at large and trade as a free man, 126
	Slaves suffered to go at large and hire themselves out, may be apprehended and sold, 126
	Proceeds of sale, how disposed of, 126
	Not to keep or carry arms, except in certain cases, 123
	Riots, &c. by slaves, how punished, 123
	Unlawful meetings of slaves, how punished, 124
	For harbouring slaves of others, 124
	Duty of justices, &c. in suppressing unlawful meetings, 124
	Negroes and mulattoes, how punished for lifting their hand against a white person, 125
	Castration, when and for what offences it may be inflicted, 125
	Owner not barred of his remedy, where his slave is killed, or dies through negligence of surgeon, &c. 125
	Outlying slaves how proceeded against, 125
	Conspiracy of slaves to rebel or murder, felony, without clergy, 125
	Or to prepare or administer medicine— <i>Proviso,</i> 125

## N

NEGROES AND MULATTOES.

Who shall be deemed slaves,	122
Who mulattoes,	123
Slaves to be deemed personal property,	123
Gifts of slaves not valid, except by will or deed, if donor remains in possession,	120
<i>Proviso</i> respecting former adjudications,	129
In what cases negroes or mulattoes may or may not be witnesses,	123
When slaves hereafter imported, shall be free,	122
Penalties on importers of, and on the sellers and buyers,	122
Certain cases excepted,	122
Slaves not to go from home without passes,	123
Coming on the plantation of others without leave from their masters, may be whipped,	123
No person shall permit the slaves of others to remain on his plantation,	125
Penalty for dealing with a slave without his master's leave,	124
Penalty for suffering a slave to go at large and trade as a free man,	126
Slaves suffered to go at large and hire themselves out, may be apprehended and sold,	126
Proceeds of sale, how disposed of,	126
Not to keep or carry arms, except in certain cases,	123
Riots, &c. by slaves, how punished,	123
Unlawful meetings of slaves, how punished,	124
For harbouring slaves of others,	124
Duty of justices, &c. in suppressing unlawful meetings,	124
Negroes and mulattoes, how punished for lifting their hand against a white person,	125
Castration, when and for what offences it may be inflicted,	125
Owner not barred of his remedy, where his slave is killed, or dies through negligence of surgeon, &c.	125
Outlying slaves how proceeded against,	125
Conspiracy of slaves to rebel or murder, felony, without clergy,	125
Or to prepare or administer medicine— <i>Proviso</i> ,	125



To steal or sell a free person as a slave, or to steal a slave, felony, without clergy,	126	NEW MARKET.	
Slaves who have asserted their freedom by commencing an action, to be tried as free men,	127	Town of, established on William Cabell's land in the county of Amherst,	322
Slaves, how tried for criminal offences,	126	NEW SALEM.	
None interested to sit on the trial of slaves,	127	Town of, established on Samuel Fitz-Randolph's land in the county of Harrison,	322
Counsel to be allowed,	126	NEWTON, (THOMAS.)	
Capital judgment, when to be executed,	126	Certain certificates and warrants to be issued to him,	250
Value of slaves condemned and executed, or dying before execution, to be paid by the public,	127	How to be disposed of by him,	250
What shall be legal evidence against them,	127	NEW TRIALS.	
Charge to such witnesses,	127	Not more than two to the same party to be granted,	33
Punishment of negroes or mulattoes for giving false testimony,	127	NICE, (WILLIAM.)	
How punished for offences within the benefit of clergy,	127	A sum of money to be paid to him,	251
Emancipated, how slaves may be,	127	NICHOLSON, (THOMAS.)	
Not to the injury of creditors,	128	Warrant to be issued to,	252
Or the rights of others,	128	NONRESIDENTS.	
Widow's dower saved in slaves, though emancipated by husband's will,	365	See <i>Attachments</i> .	
Dower in, how recovered,	365	NONSUIT	
Owner emancipating in certain cases, not discharged from obligation to support the emancipated,	128	Cannot be suffered after the jury retire from the bar,	33
Copy of instrument of emancipation to be delivered to the emancipated person,	128	NONTENURE.	
Person emancipated travelling out of his county without such copy, may be imprisoned till copy be produced,	128	Exception of nontenure of parcel not to abate the whole writ,	169
Failing to pay taxes and levies, may be hired out,	128	NOTARIES PUBLIC.	
Penalty on widows removing dower slaves out of the state,	128	How to be appointed,	194
Penalty on the husband of any one so endowed,	128	To give bond, and to take oath of fidelity and of office,	193
Slaves of intestates may be sold where an equal division in kind cannot be made,	129	Fees of,	195. 233
Penalty on masters of vessels carrying a servant or slave out of the state without the owner's consent,	129	NOTICES.	
In suits for penalty, defendants may be held to special bail,	129	How may be given when no particular mode is prescribed by law,	34
Not allowed to plead statute of limitations,	129		
Persons considering themselves illegally detained in slavery, how to proceed,	364		
Petition of complainant to set out the material facts,	364		
Counsel to be appointed to examine and report on the case, &c.	364		
When process to issue,	364		
Penalty on persons aiding in the prosecution of such petition in certain cases,	364		
Penalty on persons convicted of forging, &c., or aiding, &c., in forging instruments of writing, whereby slaves may pass as free,	365		
NEW CANTON.			
Town of, established on William Cannon's land, in the county of Buckingham,	269		
NEW LONDON ACADEMY.			
Trustees of, incorporated,	422		
Powers of,	422		
What number shall constitute a board,	423		
Vacancies how supplied,	423		
Authorized to receive subscriptions for the academy, and to enforce payment thereof,	423		

## NEW MARKET.

Town of, established on William Cabell's land in the county of Amherst, 322

## NEW SALEM.

Town of, established on Samuel Fitz-Randolph's land in the county of Harrison, 322

## NEWTON, (THOMAS.)

Certain certificates and warrants to be issued to him, 250

How to be disposed of by him, 250

## NEW TRIALS.

Not more than two to the same party to be granted, 33

## NICE, (WILLIAM.)

A sum of money to be paid to him, 251

## NICHOLSON, (THOMAS.)

Warrant to be issued to, 252

## NONRESIDENTS.

See *Attachments*.

## NONSUIT

Cannot be suffered after the jury retire from the bar, 33

## NONTENURE.

Exception of nontenure of parcel not to abate the whole writ, 169

## NOTARIES PUBLIC.

How to be appointed, 194

To give bond, and to take oath of fidelity and of office, 193

Fees of, 195. 233

## NOTICES.

How may be given when no particular mode is prescribed by law, 34

## O

## OATHS.

Oath of fidelity, 3

Must be taken by all legislative, executive and judicial officers, 3

Oath of governor, 3

Oath of privy councillor, 4

Oath of one not specially directed to take any other, 4

By whom to be administered, 4

Oath of a counsel or attorney, 4. 13

How persons refusing to take oaths from religious scruples may be qualified, 4

Oath of coroner, 49

Oath of commissioners of the revenue, 54

## OBLIGATIONS.

See *Sureties*.

## OCCAQUAN.

Privilege granted certain persons to build a toll bridge over, 429

Rates, 429

Penalty for demanding greater than allowed, 430

When bridge must be commenced and completed, 429

Privilege forfeited in case of failure, 429

Bridge to be so constructed as not to injure the navigation, 430

Privilege granted Thomas Mason to build a bridge over, from Colchester to Prince William, 430

## OFFENCES.

See *Crimes and Criminals*.





OFFICE		PAMUNKEY RIVER.	
Of the clerks of the county and corporation courts, where to be kept,		Additional trustees appointed for opening	
OFFICES.	12	and extending the navigation of,	243
See <i>Buying and Selling Offices.</i>		Trustees incorporated,	243
OFFICES, (Civil.)		Vacancies, how filled,	243
Senators and delegates, to which not eligible,	306	Seven a sufficient board,	243
OFFICERS.		May appoint a clerk,	244
See <i>Militia.</i>		Rule respecting suits, &c.,	243
OFFICIAL ACTS		Subscriptions to be received,	244
Of persons convicted of violating the act against buying and selling offices, performed before conviction, valid,		Penalty for erecting any hedge or slope in the river,	244
OPEN ACCOUNTS.		For felling trees therein,	244
In suits against executors or administrators on open accounts, duty of court to expunge all items due five years before death of decedent,	97	Recoverable by the trustees only,	244
Penalty for post dating such accounts,	97	PARCENERS.	
ORDINARIES.		Rights of, equal in elections, divisions, &c.,	101
Licenses to keep, how obtained,	142	One parcener may maintain action of waste against another,	101
Corporation courts to have the sole power of granting licenses within their jurisdictions,	145	PARDON AND REPRIEVE.	
Bond with surety to be given,	142	Persons convicted of treason, by whom and how may be pardoned,	202
Condition of,	143	PARLIAMENT.	
Penalty for opening a tavern or retailing liquors without license,	143	See <i>Acts of.</i>	
Rates for diet, liquors, &c. to be set by the county courts,	143	PARR, (JOHN.)	
Table of rates to be set up in some public room in the ordinary,	143	Land warrants to be issued to,	277
Penalty for taking more than the legal rates,	144	PATENT.	
Justices of the peace strictly enjoined to put in execution the act regulating ordinaries, &c.,	144	See <i>Land Office.</i>	
How to proceed,	144	PATOWMAC RIVER.	
<i>Proviso</i> in favour of brewers and distillers,	144	Inland navigation of, above tide water, regulated,	239
Penalty on ordinary keepers suffering gaming in their houses,	144	Owners of boats to obtain licenses from the county courts, and give bond and surety,	239, 240
Or excessive tipping on the Lord's day,	144	Clerk's fee for issuing license,	240
Not to sell liquors on credit to sailors,	146	Penalty for transporting for hire tobacco, &c. without a license,	240
Penalty for so doing,	145	Licensed boats, how to be fitted up,	240
Or for harbouring sailors,	145	Purchasers of such boats to return the licenses and take out others,	240
Debts for retailed liquors, when shall be 'void,'	145	Farther time allowed for opening,	239
Penalties, how recoverable and appropriated,	145	PATOWMAC RIVER COMPANY	
Act for regulating ordinaries, &c. to be given in charge to grand juries in county courts,	144	May sell shares of delinquent subscribers,	241
Owners of ferries may be licensed to keep ordinaries without fee,	159	Farther time allowed for completing the navigation,	241
ORPHANS.		Tolls, where payable,	241
See <i>Guardians—Apprentices.</i>		These provisions not to take effect until Maryland shall enact similar ones,	241
Poor orphans to be bound apprentices by overseers of the poor,	105	Treasurer to subscribe for shares on behalf of the commonwealth,	376
OSBORNE, (JAMES, &c.)		President, &c. authorized to restore any ground heretofore taken, and have other condemned for the use of the company,	376
Act in favour of,	336	Size of the locks may be contracted,	376
OUTLAWRY.		PATRICK COUNTY.	
See <i>Attainder.</i>		Surveyor of, to record sundry depositions respecting certain entries, where the surveyor's book is lost, and survey the entries,	256
OVERSEERS OF THE POOR.		Rights of others saved,	256
See <i>Poor.</i>		PATROLES.	
OXFORD.		See <i>Militia.</i>	
Town of, established on Hargrave's land, in the county of Caroline,	268	How, and by whom to be appointed,	206
		Duty of,	207
		Pay,	207
		PAUL, (THOMAS.)	
		Warrant to be issued to,	282
		PAYMENT.	
		When pleadable in bar,	32



<b>PENAL LAWS.</b>		
Actions on, when to be commenced,	26	
Special bail in, when may be required,	26	
<b>PENALTIES.</b>		
How recovered, when not exceeding twenty dollars,	26	
<b>PENSIONS.</b>		
Blackburn, Benjamin, arrears of his pension to be paid,	278	
Cornhill, Mary, widow of John Cornhill, to be placed on the pension list,	415	
Green, Andrew, to be replaced on the pension list, and arrears paid,	277	
Harris, Thomas, to be placed on the pension list, &c.,	278	
Hill, Ann, to be placed on the pension list,	278	
Jordan, Michael, to be placed on the pension list,	422	
Robinson, James, to be placed on the pension list,	332	
Tool, Sarah, widow of Richard Tool, to be placed on the pension list,	333	
Tanner, Dorothy, widow of Jacob Tanner, to be placed on the pension list,	333	
Tucker, William, to be placed on the pension list,	420	
Wright, John, to be placed on the pension list, and immediate relief granted,	279	
<b>PERRY, (IGNATIUS.)</b>		
Trustees appointed to convey a tract of land to,	334	
Rights of others saved,	334	
<b>PETERSBURG ACADEMY.</b>		
Trustees of, incorporated,	320	
How many to constitute a board, and its powers,	320	
Treasurer to be elected, and his duties,	320	
How proceeded against for delinquency,	321	
Subscriptions to be received by the trustees for building the academy,	320	
<b>PETERSBURG LIBRARY SOCIETY.</b>		
See <i>Speculative Society of Petersburg.</i>		
<b>PETIT JURIES.</b>		
See <i>Venue Men—Juries.</i>		
Qualification of, in superior courts,	19	
In inferior courts,	19	
Infants not to serve as jurors,	19	
When and by whom to be summoned,	19	
Fine on failure to attend,	19	
Jurors shall not be challenged after they are sworn,	19	
How punished for contempt,	19	
When sheriff may converse with them,	19	
Penalty on a juror taking any thing for giving his verdict,	20	
Who may be summoned as jurors in James City county,	20	
May take out with them papers, though not under seal,	33	
<b>PHILIPSBURG.</b>		
Town of, established at Aylett's warehouse in King William county,	266	
<b>PIANKITANK RIVER.</b>		
Trustees appointed, for clearing, improving and extending its navigation,	399	
Five may act,	399	
Authorized to receive subscriptions,	399	
Subscribers failing to pay on demand made, may be proceeded against by motion,	399	
Trustees may appoint a treasurer, who shall give bond with surety,	400	
Treasurer, his executors, &c. may be proceeded against by motion, on failing to pay money when required,	400	
Clerk and other necessary officers may be appointed by trustees,	400	
Trustees incorporated by the name of "The Trustees of the Piankitank Canal Company,"	400	
Trustees may fill vacancies in cases of death, &c.	400	
May contract for the execution of the work, &c.	400	
May agree for land through which it may be necessary to conduct the navigation, or have the same condemned,	401	
Tolls demandable for the transportation of certain articles,	401	
Penalty on persons neglecting to pay tolls,	402	
Profits accruing how appropriated,	402	
Stock declared real estate,	402	
Interest transferrable,	403	
Penalty on owners or occupiers of land, &c. permitting a tree to be felled in canal, &c.	402	
Penalty for making hedges, weirs, &c. therein,	402	
Trustees may direct owners of mills to cut slopes or wastes, &c.	402	
Suits against trustees, how to be brought, &c.	403	
<b>PILOTS.</b>		
Examiners appointed,	169	
To be furnished with a copy of act regulating pilots,	172	
Applicants for examination to produce certificates from county and corporation courts of their honesty, &c.	169	
Fee for examination,	169	
Branches to be given to those who are qualified,	169	
To give bond and surety,	302	
Pilots to be arranged into three classes,	170	
To take charge of vessels according to their classes,	170	
Disqualified by removing out of the state,	170	
How they may be suspended or removed,	170	
Pilots losing vessels incapacitated, and liable to damages,	171	
Examiners may give to apprentices copies of their master's branches,	170	
Pilots must keep sufficient boats,	170	
Names of the boat and port to be painted on the foresail,	170	
Penalty for piloting a vessel without having a branch and boat,	171	
<i>Proviso</i> as to vessels in distress,	171	
Pilots residing out of the state, not to act in any boat belonging to this state,	302	
Not more than four pilots to be in partnership,	171	
Rules for masters of vessels and pilots,	171	
Rates of pilotage,	171, 302, 303, 371	
Allowance where detained by the vessel not being ready,	172	





Allowance to pilots for each day they attend a vessel at owner's or master's request,	302	Collector of poor rates, how appointed,	116
Pilots carried to sea to receive the same wages as the mate,	302	To give bond and surety,	116
Pilots first meeting a vessel to conduct her to certain places,	371	His commissions,	116
Rules to be observed by pilots, in case of meeting vessels coming from places infected with contagious diseases,	371	If he dies, another may be appointed,	117
Rates of pilotage for ships of war,	302	When they may distrain for poor rates,	116
One fourth added to the pilotage of certain vessels,	302	When to be collected by sheriff,	117
Exception as to vessels going from the Capes up Patowmac,	303	Collectors may appoint deputies,	117
Act regulating pilots to be carried by them, and exhibited to masters,	172	Remedy against collectors for failing to settle their accounts, or to pay over the money,	117
Officers of the customs not to permit vessels to clear out till the pilotage is paid,	172	Overseers to settle their accounts annually with the county courts,	118
Coasting vessels not obliged to take a pilot,	371	Penalty for failure,	118
PITCH.		Remedy against the overseers for failing to pay the money to the persons entitled,	117
See Tar.		Overseers to settle with their predecessors and with the former collectors,	117
PITTMAN, (WILLIAM.)		To levy a sufficient sum to pay any arrears due,	118
Interest of the commonwealth in a certain tract of land vested in the heirs of William Pittman, deceased,	335	Bastard children may be bound apprentices by overseers of the poor,	120
Saving the rights of others,	335	Vagrants, duty of overseers of the poor, touching,	120
PLEAS AND PLEADING.		Settlement, legal, what shall be deemed,	121
What defendant may plead in trespass <i>quare clausum fregit</i> ,	30	Corporation courts to provide for their own poor,	120
POINT PLEASANT.		Any two magistrates thereof may remove poor persons to the places of their legal residence,	120
Town of, established on Thomas Lewis's land, in the county of Kanawha, on Kanawha river,	322	Overseers of the poor of a county may remove to any corporation, poor persons belonging thereto,	120
POOR.		Poor houses, county and corporation courts may provide,	120
See Poor Rates.		Corporations, how may levy money for the support of their poor,	120
Overseers of, how and by whom to be elected,	114, 121	Penalties and forfeitures under the act providing for the poor, how appropriated,	121
Superintendents of election to be appointed by county court,	114	Fines, &c. appropriated towards lessening the county levies, how to be collected,	121
Return to be made of the persons elected,	114	POOR RATES.	
Persons elected to be informed of their election,	114	To be levied by the overseers of the poor,	115
Penalty on refusing to serve without just excuse,	114, 115	Who may be and by whom exempted therefrom,	118
How qualified,	114	When to be collected by sheriff,	47, 117
When overseers shall be appointed by the county courts,	115	PORK AND BEEF.	
Overseers may appoint a clerk,	118	Inspectors of, how appointed and qualified,	173
His allowance,	118	Their duty,	173
Penalty for neglect of duty,	118	Fees,	173
Overseers to meet annually to levy the poor rate,	115	Contents and quality of barrels of pork and beef,	174
Proceedings and accounts of overseers to be entered in a book,	118	Penalties for exposing to sale barrels of less weight or gauge,	174
How they shall vote at their annual meeting,	118	How recoverable,	174
Allowance to,	118	Judgments for, may be appealed from,	174
Penalty for nonattendance,	118	Oath of seller or exporter of pork or beef,	175
Overseers shall provide for the poor, lame and blind of their respective districts,	115	Cooper's duty in setting up barrels for pork, &c.	175
On refusal to give relief, applicant may apply to the county court to be placed on the poor list,	115	Fines, &c. how recoverable,	175
Strolling poor, how to be dealt with,	115	POSSESSION.	
Residence, disputes concerning, how determined,	116, 120	Of part of lands, when not to be deemed a possession of the whole,	33
Overseers to make monthly returns of poor orphans, &c.	116	Actual possession not necessary to maintain a writ of right,	33
		POST DATE.	
		Penalty for post dating store accounts,	28
		POWER OF ATTORNEY.	
		For confessing judgment and releasing errors before suit brought, void,	32





## PRESENTMENT.

Rules in making presentments, 19. 363  
Process on presentments for offences not capital, 25

## PRESIDENT OF THE UNITED STATES.

Resolution expressive of the sense of the general assembly of his integrity, &c. 433

## PRISON BOUNDS AND RULES.

See *Escapes*.

Mode of proceeding against prisoners escaping from the prison rules, 42

When prisoners in execution may have liberty of the rules, 219

## PRISON BREAKERS.

In what cases breaking prison shall be felony, 293

## PRISONERS.

See *Criminals*.

To be allowed counsel, 22

To be tried at the first term, 22

When they shall be bailed or discharged, if not tried, 22

Their witnesses, how to be summoned and paid, 22

Standing mute, to be deemed convicted, 23

How turned over by sheriff to his successor, 47

Not to be removed from the custody of one officer to another, except in particular cases, 161

Executive to supply certain prisoners with clothing, &c. 431

## PRISONS.

See *Gaoler and Gaols*.

## PRIVATE ACTS OF ASSEMBLY

May be given in evidence, without pleading them specially, 33

## PRIVATE PERSONS.

Penalty on their suffering criminals to escape, 25

## PRIVY EXAMINATION

Of *feme covert*, how taken and recorded, PROCESS 85

## PROCESS

Against persons indicted of treason or felony, not in custody, 22

On presentments for offences not capital, 25

In real actions, other than writs of right, 32

Process duly executed, good, though not directed to any sheriff, 33

What process not to be executed on Sundays, 46

Nor on persons attending musters, elections, or as witnesses, 46

## PROCESSIONING.

See *Land Office*.

## PROFANE SWEARING.

How punished, 192

Within what time must be prosecuted, PROSECUTIONS. 192

Charges of, to be defrayed out of prisoner's estate, if convicted, 23

Expenses attending criminal prosecutions in county and other inferior courts, how to be liquidated and paid, 23

## PROSECUTORS.

For offences not capital, may be compelled to give security for costs, 26

## PROTEST.

See *Bills of Exchange*.

## PUBLIC ACCOUNTS.

See *Auditor*.

## PUBLIC CLAIMS.

Persons aggrieved by the auditor's disallowing or abating any claim, how redressed, 62

## PUBLIC LANDS.

Commissioners to be appointed to sell certain public lands, 237

How the sales shall be made, 237

Payments of the purchase money when to be made, and proceedings on nonpayment, 237

Conveyances to the purchasers, 237

Commissioners to make return of their proceedings to the executive, 237

Their commissions for selling, 237

May receive the rents heretofore collected from the receivers thereof, 237

## PUBLIC MONEY

Received by the clerks of county and corporation courts, when to be accounted for by them, 12

## PUTNEY, (DAVID.)

Interest of the commonwealth in certain lands vested in David Putney, saving the rights of others, 410

## Q

## QUANTICO CREEK.

Commissioners appointed for receiving subscriptions to amount of \$10,000 for opening and improving, to give notice thereof, and to call a meeting of the subscribers, 394

Subscription books to be exhibited to the meeting, 395

On one half of the capital being subscribed, subscribers incorporated by the name of "The Quantico Company," 395

President and directors may contract for the execution of the work, 396

Treasurer to be appointed, to give bond and surety for the due discharge of the trust, 396

Instalments, amount of, and times of payment to be notified by president, &c. to subscribers, 396

Shares of delinquent subscribers may be sold at auction, and if the sum demanded is not produced thereby, balance may be recovered by motion, on notice, 397

Shares transferrable, 397

General meeting, what number of shares represented by persons present, shall be necessary to constitute, 397

President and directors to be elected at general meeting; vacancies how supplied, 397

Accounts of the company to be returned to the general meeting, 397

Tolls demandable for the transportation of certain articles, 398

Penalty on refusing or neglecting to pay tolls, 398

Waters of Quantico, to the termination of the tide, deemed a public highway, &c., 393



## QUARANTINE.

Rules to be observed by pilots in case of meeting vessels coming from places infected with contagious diseases,	371
How rules for the performance of, shall be made and observed,	175
Officers of, how and by whom constituted,	177
When superintendents of, may enforce the laws of quarantine, without executive proclamation, and his duty thereupon,	369
Expenses of performing quarantine, how to be defrayed,	177, 236
Duty of masters of vessels having on board persons infected with pestilential diseases,	176
Enquiry to be made, when vessels come from infected places,	176
Penalty on master for concealing it,	176
Duty of masters of vessels performing quarantine,	175
Penalty for breach,	176
Persons escaping to be compelled to return to the vessel,	177
Penalty on persons appointed to execute orders concerning quarantine, neglecting their duty,	177
When and how vessel discharged from quarantine,	177
Forfeitures, how recoverable and appropriated,	177
Superintendents of quarantine for persons coming by land into the state from infected places, to be appointed,	236
Places suitable for the performance of quarantine to be established by the governor, to contract for land, and cause buildings to be erected,	368, 369
Infected places within this state subject to the laws of quarantine,	369

## R

## RAMSAY, (JAMES.)

Duplicate of a military certificate to be issued to,	334
--	-----

## RANDOLPH.

County court of, authorized to open wagon road from the courthouse to the state road at David Manear's, on Cheat river,	256
Road by whom to be cut, &c.	256

## RAPE.

How punished,	178
For carnally knowing a woman child under the age of ten years,	178

## RAPPAHANNOCK RIVER.

Books to be opened for receiving subscriptions to amount of \$100,000, for opening and clearing the navigation of,	344, 407
Capital to be enlarged if necessary,	252
First meeting of the subscribers,	245
Books of subscription to be laid before them, and additional subscriptions to be received if one half of the capital be not then subscribed,	245
List of subscribers to be recorded,	245
Subscriptions to be void, unless half the capital be subscribed,	245

If one half be subscribed, other subscriptions to be received to make up the capital,	246
Subscribers to be a body corporate, by the name of "The Rappahannock Company,"	246
President and directors to be chosen,	246
General meetings of the company,	247
How the votes shall be counted at general meetings,	246
President and directors to contract for cutting canals, making locks, &c.	246
To appoint a treasurer, &c.,	246
Compensation for their trouble,	246
Treasurer to give bond and surety,	246
President and directors authorized to require payment of the subscriptions,	247
And, to enforce payment by suit,	247
Succession of president and directors, how to be continued,	247
How they may be removed from office,	247
Dividends of profits,	247
Canals, works and profits vested in the company, and exempted from taxes,	247
Tolls,	248, 249
In what coin they may be paid,	248
Payment of them, how enforced,	248
Proprietors holding a certain number of shares may lessen the tolls,	248
Conditions on which the tolls are granted,	248
The river, canals, &c. to be a public highway,	248
How company may acquire right to land necessary for canals, &c.,	248, 249
Water of the canals to be used for navigation only, unless the consent of the proprietors of the lands be obtained,	251
Shares, how transferred,	251
Subscriptions to be received, on condition that the works are completed,	251
When work to be begun and completed,	252
Farther time allowed,	407
Subscription books to be opened,	407

## RATE OF EXCHANGE.

How ascertained,	35
See <i>Exchange</i> .	

## REBELLION.

Conspiracy of slaves to rebel, felony without clergy,	125
---	-----

## RECORDS

Of county and corporation courts not to be moved out of the county or corporation, except in cases of invasions or insurrections,	12
---	----

## REGISTER'S OFFICE.

See <i>Land Office</i> .	
--------------------------	--

## RELEASE OF ERRORS.

Judgment on confession equal to,	34
----------------------------------	----

## RELIGIOUS WORSHIP.

Disturbers of, may be arrested, and bound with sureties, to be of good behaviour,	192
When may be punished by fine and imprisonment,	192

## RENTS.

Distress for, within what time after due must be made,	81
Must be reasonable,	83
Method of proceeding in distresses for rent,	79





- Tenor of bonds to be taken, 79  
 Money due thereon, how recovered, 79, 80  
 Where distress is made for tobacco between 30th September, and 31st December, 80  
 Goods carried off the premises may be seized within ten days thereafter, 81  
 Unless *bona fide* sold before seizure, 81  
 Goods distrained not to be removed out of the county, 83  
 Rent in arrear, how, and under what circumstances may be distrained for after determination of the lease, 81  
 Triple damages on pound breach or *rescous*, 80  
 Remedy in case of wrongful distress, 80  
 Goods on leasehold lands not to be taken in execution until the rent in arrear be paid, *provided* such rent do not amount to more than one year's rent, 80  
 Executors and administrators may distrain for rent due to their decedents, though the tenant's estate be determined, 83  
 Replevin, writ of, on what terms may be issued, 82  
 Rent being found due, party delayed to recover double the value, 82  
 Persons, other than tenants, claiming property in goods distrained, may sue out a writ of replevin, on giving bond, and if cast, shall pay double rent, 82  
 Suits in replevin to be speedily tried, 82  
 Debt may be brought for rent in arrear on leases for life, 81  
 Grantees of lands, or of the reversions, to have the same right of entry for non-payment of rent, &c. as the original lessors, 82  
 Lessees of lands to have the like actions and advantages of covenants, &c. against the grantees of reversions as against the original lessors, 82, 83  
 Executors and administrators may maintain debt against a tenant, or his executors, &c. for rent due their decedent, or may distrain during the tenant's seizin or possession, 83  
 Husband, having in right of his wife an estate in fee or for life, may, after her death, maintain debt, or distrain for rent accruing during her life, 83  
 Executors or administrators may maintain debt, or distrain for rent due their decedents, although the tenant's estate be determined, 83  
 Attachment for rent growing due, when and under what circumstances landlord may obtain, 81  
 Commonwealth's rights in securing and recovering debts, &c. unrestrained, 82  
 Where tenant for life of lands dies before the rent becomes due, to whom payable, 96  
**REPLEVIN.**  
 Writ of, in case of distress for rent, not to be issued until bond and security be given, 82  
 Person other than tenant may sue out writ of replevin, 82  
 Suits in replevin to be tried speedily, 89
- Rent found to be due, judgment against tenant for double the value, 82  
 Against other than tenant, double the rent, 83  
**RESTITUTION OF STOLEN GOODS.**  
 Courts before whom felons are convicted, may award restitution of the goods stolen by them, 26  
**REVENUE.**  
 See *Commissioners—Taxes.*  
 Lists of taxable property, how and by whom taken, 54, 57  
 Penalty for delivering false lists, 56  
 Delinquents, how proceeded against, 57  
 Duty of persons knowing any false lists to be delivered, 57  
 Lists of insolvents to be entered, and sheriff credited therefor, 53  
 Taxes due by persons removing from one county to another, how to be collected, 53  
 Account of additional taxes and fines to be sent to the auditor, 53  
 Form of book containing taxes on lands, 53  
 Form of commissioners' returns of taxable property, 59  
 Taxes, when due, 59  
 When distrainable, 59  
 Not to be distrained for, after two years from the time they became due, 59  
 What may be distrained for taxes, 60  
 When distress may be sold, 60  
 How the taxes on lands are to be collected when the officer cannot find effects on the same to pay the taxes thereon, 60  
 Taxes, when to be paid into the treasury, 59  
 How to be collected when the sheriff dies, 59  
 Where sheriff and his deputies die, 59  
 When lands shall be forfeited for the non-payment of taxes, 61  
 How title thereto may be acquired, 61  
 Saving the rights of infants, *fenes covert*, &c., 61  
 Arrearages of revenue taxes, aggregate fund of, how appropriated, 226, 233  
 How to be divided amongst the holders of warrants, 226  
 Former appropriations continued, 226  
 Funds for the support of civil government, 226, 229, 359  
 Deficiency in certain funds to be supplied by borrowing from others, 227, 229, 359  
 A quarter's interest on certain certificates for assumed debt received by the state, to be paid to the holders of such certificates, 227  
 Charges on the revenue arising between 31st December, 1794, and 1st January, 1796, 229  
 Commissioners, when unable to find lands subject to taxation, shall publish, and proceed to tax the same, from the best information attainable, 357  
**REVERSIONERS.**  
 Rights of, against tenants, 82  
 When may defend suits brought against tenant for life, 152  
**RICHMOND, (City of)**  
 Lots deemed within city, described, 272  
 Proceedings of the court of hustings and common hall respecting, declared valid, 272



Watson's tenement part of city,	273	Commissioners appointed,	410
Shockoe hill market established,	273	ROANOKE RIVER.	
Coutts's addition part of city,	272	Resolution respecting its improved navigation,	201, 202
RIGHT OF ENTRY.		ROBINSON, (JAMES.)	
When the dying seized of a disseisor shall not take away the right of entry,	152	Sum of money granted to his widow for her immediate relief,	332
Widow not barred of right of entry into her land, lost by her husband's default,	151	ROCKINGHAM.	
Or conveyed by him,	152	Authority vested in county court of, by a certain expired act, revived, and continued until 1st November, 1794,	254
RIOTS, ROUTS AND UNLAWFUL ASSEMBLIES.		ROGERS, (NATHANIEL.)	
Slaves, &c., how punished for,	123	Certificates to issue to, by auditor of public accounts,	231
Trustees appointed to receive subscriptions for clearing,	330	ROMNEY.	
Subscribers to meet and choose directors,	330	Certain lots in the town of, to be vested in the trustees,	317
May vote by proxy,	330	How to be disposed of by them,	317, 318
Vacancy, how filled,	330	Purchase money to be paid into the treasury, subject to the claim of the proprietor,	317
Receiver to be appointed,	330	Ground rent to be reserved,	317
Subscriptions, when to be paid,	330	Vacancies in trustees, how to be supplied,	318
How recovered,	330	ROUTS.	
Directors to view the river, and contract for clearing it,	330, 331	See Riots, &c.	
Right of Henderson's representatives to their mill dam saved,	331	RUNAWAYS.	
RIVERS AND CREEKS.		How apprehended and secured,	178
Beds of, not to be granted,	65	Not to be conveyed to prison, if owner resides in the county,	178
Navigation of, nor the passage of fish, to be obstructed by dams, hedges, &c. without leave be obtained as in the case of mills,	138, 139	Reward for apprehending them,	178
County courts may contract for clearing rivers and creeks of certain obstructions to navigation and the passage of fish,	139	How recovered,	179
Penalty for felling trees into rivers and creeks,	139	Jailors to advertise description of them,	178
ROADS.		How to be employed when owners do not claim them,	178
Road from Elk river, in Kanawha county, to the mouth of the Great Kanawha river, commissioners appointed to superintend opening,	311, 312	Owners must prove their property,	179
Their powers and duties, &c.,	312	When runaway may be sold,	179
Powers of undertakers, &c.,	312	Jailors' fees for committing, maintaining and releasing them,	179
Road over the Blue Ridge at Swift Run gap, how to be kept in repair,	313	How runaways to be dealt with that have crossed Chesapeake bay,	179
Undertaker to give bond and surety,	313	S	
Expense thereof, how to be defrayed,	313	SABBATH BREAKERS.	
Road from Lewisburg to the falls of the Great Kanawha, act concerning, to continue in force three years,	314	Penalty for labouring on the sabbath,	193
Road from the Block house in Washington, to the Cumberland mountain in Lee, to be opened,	314	SABBATH DAY.	
Commissioners appointed,	314	No process to be served on, except in cases of treason, felony, riot, breach of the peace, or escape,	46
Undertakers to give bond, &c.,	314	Attachments against absconding debtors may be issued and served on,	40
Certain taxes appropriated to the purpose,	314, 315	SAILORS.	
Turnpike road from Alexandria to Little river to be constructed,	378	Tavern keepers not to sell liquors on credit to,	146
Commissioners appointed,	378	Penalty for so doing, or for harbouring them,	145
Road (toll) from the Great falls of the Patowmac to Alexandria to be formed,	357	Penalty on masters of vessels putting sick or disabled sailors on shore,	146
Commissioners appointed,	357	May be held to bail in suits for,	147
Road from Savage river to Morgantown to be repaired, sum allowed, and commissioners to contract for repairing,	359	How sailors may dispose of their chattels by will,	89
Road from Morgantown to the mouth of Grave creek, balance of certain taxes applied to,	410	SAINT DOMINGO.	
		Two thousand pounds appropriated for the relief of emigrants therefrom,	273, 274
		SALARIES	
		To the officers of civil government, payable quarterly,	5
		Of the governor,	5
		privy council,	5
		judges of the court of appeals,	5





Of the judge of the high court of chancery,	5. 411	What property of servants secured to them,	120
judges of the general court,	5	Sick or lame servants not to be discharged,	181
attorney general and his deputies,	5	Penalty for dealing with servants without leave,	181
auditor of public accounts,	5	Servants, how punished for breach of penal laws,	181
speaker of the senate,	5	Certificates of freedom, when to be furnished,	181
speaker of the house of delegates,	5	Penalty for harbouring servants without such certificate,	181
clerk of the general court,	5. 234	Punishment of servants using forged or stolen certificates,	181
register of the land office and clerks,	5	And, of the forgers thereof,	182
treasurer,	5	SESSIONS OF COURTS.	
clerks of the council, treasury and auditor,	5	See Courts.	
keeper of the public goal,	5	SETTLEMENT.	
How, and in what paid,	5	What shall be deemed a legal settlement,	121
SALMON, (JOHN.)		SHERIFF.	
Certain sum of money to be paid to,	337	How nominated and appointed,	43
SALT SPRINGS,		Penalty on the justices failing to nominate,	43
In Washington county, the owner or proprietors to enclose them,	325	Person appointed failing to give bond, &c. within two months, clerk of the court to certify such failure to the executive,	43
Penalty for neglect,	326	On person's appointed failing to give bond, &c., or to apply for commission, the executive may commission some other person,	43
For failing to keep up the inclosure,	326	When all the justices of a county shall refuse the sheriffalty thereof, the court to recommend two freeholders,	367
SCROLLS.		Persons thus commissioned to have same emoluments, and be subject to like penalties as other sheriffs,	367
When to have the effect of actual seals,	33	When no person will accept the sheriffalty, executive to appoint,	367
SEALS.		Term of office,	44
Scrolls, when to be considered as seals,	33	Death of sheriff, vacancy, how filled,	44
SEAMEN.		Term of office, when appointed to fill place of decedent,	44
See Sailors.		To give bond and surety for duly collecting and accounting for public taxes, levies and fines, and for collecting and accounting for officers' fees, and duly discharging the duties of his office,	44, 45
SECURITIES.		Bond, to whom to be made payable, and how snits may be brought thereon,	45
See Sureties.		On refusal to act, or disability of sheriff, the executive may appoint collectors of taxes,	44
SECURITY FOR COSTS.		Deputy sheriff, no person to act as, for more than two years, unless he has collected and accounted for the taxes assigned to him,	45
Prosecutors for offences not capital, may be compelled to give security for costs,	26	Sheriffs and collectors to deliver to persons paying officers' fees, &c. fair accounts and receipts therefor,	45
May be demanded by defendants in suits instituted by nonresidents,	32	Sheriffs and other officers to execute process within their counties, &c.,	46
SEDITION.		Penalty for a false return thereof,	46
See Negroes, &c.		When sheriff may return, that defendant is 'not found,'	46
SENATE.		What process not to be executed on Sundays,	46
Senatorial districts,	7	Bonds taken by sheriffs not authorized by law, void,	46
SENATE OF THE UNITED STATES.		Not to take more than legal fees,	47
Doors of, should be opened for the admission of citizens, and senators enjoined to procure their admission,	253, 234		
SENATORS IN CONGRESS.			
Vote of, against the ratification of the treaty lately negotiated between the United States and Great Britain, approved,	432		
SEIZURES.			
None to seize goods of criminals until they are forfeited,	25		
SEPARATE GOVERNMENT.			
Attempt to establish one within the limits of this state, deemed a high crime and misdemeanor,	187		
How punished,	187		
SERVANTS.			
What servants shall specifically perform their contracts,	179		
Who may not have white servants,	181		
Master's duty to servants,	180		
Lazy and disorderly servants may be punished, and how,	180		
Time lost, and expenses in regaining, how compensated,	180		
County and corporation courts to hear servants' complaints,	180		
Proceedings thereupon,	180		
Contracts for service, how assignable,	180		
Contracts between master and servant during service, void,	180		





<i>Ex officio</i> services, what,	47	To appoint receivers,	323
When to collect levies, fines and poor rates,	47	How proceeded against on failure to pay over money received by them,	323
Slaves not to be distrained, where there is other sufficient distress,	47	Owners of mills on the river, to erect locks and slopes for the passage of boats and fish,	323
Unreasonable distresses not to be made,	47	Penalty for felling a tree into the river,	329
May impress guards to secure criminals in gaol,	47	SLAUGHTER, (ROBERT.)	
How prisoners turned over by sheriff to his successor,	47	Auditor to issue a warrant in favour of, SLAVES.	413
Commission for collecting taxes, fines, &c.,	47, 367	See <i>Negroes and Mulattoes</i> .	
Additional per centum on taxes paid in,	367	When not to be distrained,	47
When to be paid to their legal representatives,	363	In what cases they may not be taken in execution,	213
Sheriff, not obliged to go out of his county to pay money levied by execution,	47	When tenant for life dies before hires of, become due, to whom payable,	96
Deputy sheriff to endorse on executions, the time when received, and to subscribe his name and that of his principal, to returns on process,	48	Slaves brought into this state from Africa, or from the West India islands, to be sent out of the state,	239
Sheriff's remedy against his deputy,	47	SMALL POX.	
On deputy sheriff's failing to account for public taxes, received by him, sheriff's remedy against,	48	Penalty for importing small pox, or any variolous or infectious matter thereof, to inoculate therefor,	139
Sheriffs' lands, when bound to reimburse their sureties,	48	License to inoculate may be granted by the magistrates of the county or corporation,	140
Lands of deputy sheriffs, bound to their sureties,	363	Or, by the housekeepers residing within a certain distance, under certain rules and regulations for confining the infection,	140
Remedy given by law to sureties of high sheriff, extended to executors, &c., of sureties,	363	Penalties for transgressing them,	140, 141
Sheriff's remedy against his deputy, and his executors and sureties, after judgment against such sheriff,	235	Penalty for inoculating without license,	141
When he may obtain judgment against his deputy, &c., before judgment is rendered against himself,	235	Unless some one of the family has taken the infection in the natural way,	142
No security to be taken on executions on judgments obtained by sheriffs against their deputies, &c.,	236	No patient compellable to remove from his home,	142
SHIP YARD.		Penalty for propagating the small pox contrary to statutory provisions,	142
Tract of land, to be sold,	237	Penalties, how recovered and appropriated,	142
SHOOTING.		Expenses incurred in checking small pox, or carrying on inoculation, how to be defrayed,	141
See <i>Hunting and Ranging</i> .		Penalty on the sheriffs and magistrates for neglecting the duties enjoined on them,	141
Shooting any person with intent to maim, &c., felony,	112	SMITH, (WILLIAM.)	
Counsellors, aiders and abettors, principals,	112	Land warrant to be issued to,	276
SILVER.		SMYTH, (ADAM.)	
See <i>Coin</i> .		Commissioners appointed to ascertain the debt due from the parish of Botetourt, to the estate of the rev. Adam Smyth,	275
Cut silver coin in the treasury, to be drawn out by executive, and coined into half dismes, for use of commonwealth,	234	SOLDIERS	
SINKING FUND.		In actual service, how may dispose of their chattels by will,	89
Auditor required to endorse on the certificates of, exchanged for others, that interest has been paid thereon to 1st January, 1793,	202	SOUTH RIVER.	
Executive requested to examine the certificate of, and cause them to be destroyed,	433	County court of Augusta to grant orders for building slopes in,	407
SLATE RIVER.		SOUTHAMPTON COUNTY.	
Commissioners to examine, to be appointed, and their duty,	240	The lands of Benj. Rutlin, Jno. Simmons and Artiaur Foster therein, to be revalued,	254
Trustees appointed for clearing and improving,	323	Excess of former valuation, to be charged to the other lands in the county,	254
Vacancy, how supplied,	329	The commissioners to make out three books of the valuation,	254
Their powers and duties,	323	How to be disposed of,	255
		Allowance to commissioners,	255
		SOUTHANNA RIVER.	
		County court of Hanover to grant orders for building slopes in,	406



- SPECIAL BAIL.**  
 Any judge of the general court, or justice of the peace may take, 34  
 Recognizance of special bail, form of, 34  
 Bail piece, 34
- SPECULATIVE SOCIETY OF PETERSBURG**  
 Incorporated, 414  
 Powers of, 415  
 Treasurer to give bond, &c., 415  
 Librarian responsible for books committed to his charge, 415  
 Treasurer, how to proceed against delinquents on nonpayment of dues, 415  
 Penalties how recovered, 415
- SPENCE, (THOMAS.)**  
 Auditor to issue a warrant to, 409
- SPOTSWOOD, (ALEXANDER.)**  
 Petition of, reasonable, 433
- STABBING.**  
 Stabbing any person with intent to maim, &c., felony, 112  
 Counsellors, aiders, &c., principals, 112
- STAGE CARRIAGES.**  
 See *Hoomes, (John.)*
- STANARDSVILLE.**  
 Town of, established, in the county of Orange, on the land of William Starnard, 322
- STATE.**  
 Cannot be made a defendant at the suit of any individual; senators and representatives, urged to procure an amendment of the constitution of the United States to remove all difficulty on the subject, 234
- STAUNTON.**  
 Inhabitants of, to elect trustees triennially, 423  
 Their powers and oath, 423
- STERLING MONEY.**  
 When may be declared for, and when not, 36  
 Judgment for sterling debts, at what exchange to be discharged, 35, 36
- STOLEN GOODS.**  
 Receivers of, may be punished as for misdemeanor, although the principal be not convicted, 143  
 See *Restitution of.*
- STORE ACCOUNTS.**  
 Limitation of actions on store accounts, 23  
 Date of the delivery of the articles to be specified, 23  
 Penalty for post dating such accounts, 23  
 Limitation to commencement from the respective dates or delivery of the articles, 23  
 Verdict or judgment to be given only for what was delivered within the year, 23
- STORE HOUSE.**  
 Feloniously breaking into, and stealing therefrom money or goods of the value of four dollars, felony without clergy, 147
- STROTHER, (JOHN.)**  
 Petition of, for a duplicate of a land warrant, reasonable, 433
- SUNDAY.**  
 See *Sabbath.*
- SURETIES.**  
 Summary remedy for sureties in notes or obligations against their principals, 195
- For one surety against another jointly bound with him, 195  
 Sureties not to suffer judgments to go against them by confession or default, to the injury of their principals, 196  
 Common bail, remedy of against defendant, 196  
 When sureties in bonds, &c. may require the creditors to commence suits thereon, 294  
 Effect of their not complying, 294  
 Sureties and their executors or administrators may proceed in like manner with the executors or administrators of the creditor, 294  
 Bonds with collateral conditions, and those given by guardians, executors, administrators and public officers, *excepted*, 294  
 Creditor's remedy against his principal debtor, not to be affected, 294  
 How sureties in bonds, &c. on which execution may be awarded without judgment, may proceed against their principals, 295  
 How they may proceed against those who were bound with them as sureties, 295  
 How execution on such judgments to be enforced, 295
- SURPLUS LANDS.**  
 Method of obtaining grants for surplus lands within the bounds of patents, 72  
*Proviso* for the relief of landholders unjustly vexed, 73
- SURRY.**  
 Courthouse of, where to be erected, and courts when to be holden, 373
- SURVEYORS.**  
 See *Land Office.*  
 How nominated, examined and commissioned, 65  
 When the court is divided in the recommendation, high sheriff to vote, 74  
 Tenure of office, 65  
 How qualified, 65  
 Deputy surveyors, how appointed, 65  
 How removable, 66  
 Who disqualified, 69  
 Their powers and emolument, 66  
 Penalty for giving to their principals a greater part of the profits than allowed, 66  
 Surveyors, where must reside, 66  
 Surveyors may direct deputy to survey, 68  
 How entries may be made on the eastern waters, where there is no surveyor, 66  
 How surveyors may be punished for neglect, 69  
 Their offices to be annually inspected, 69  
 Penalty on their refusing to produce or deliver up their books when required by the court, 69  
 Not to withhold plats from the owners, 74  
 Exception, 75  
 Their fees, one sixth of, appropriated to the college of William & Mary, 65  
 Fees of surveyors of Monongalia, &c. one sixth of, appropriated to the Randolph academy, 66
- SURVEYS.**  
 See *Surveyors—Land Office.*





How entries and surveys may be made on the eastern waters where there is no surveyor,		On transfers of surveyors' certificates,	225, 288, 358
Notice of time of surveying to be given to nonresidents of the county,	66	On attestations under the seals of notaries,	225, 288, 359
How surveyor may locate his own warrants,	67	On certificates under the seal of the commonwealth,	225, 288, 359
Of located lands, when and how to be made,	67	No tax to be paid on <i>capias ad respondendum</i> , issued from inferior courts since 3d December, 1792,	226
Variation of magnetic needle to be expressed in plats of surveys,	67	Sheriffs may distrain for the taxes of 1792,	227
Penalty on failure,	68	When they shall pay them into the treasury,	227
Surveys, when may be executed by a deputy,	68	Agent to be appointed by the executive in each brigade district, to attend sales under executions for arrears of taxes, &c.	229
Chain carriers to be sworn,	68	When they may purchase the property,	230
Surveys to be closed, lines marked, and length and breadth proportioned; exception,	68	Endorsements to be made by sheriffs of the property purchased by the agents,	230
Plats and certificates when to be delivered, To be entered in the books of the principal surveyor,	69	Penalty for neglect,	230
Lists of surveys to be annually returned to the clerk of the county, and to William & Mary college,	69	When and how they shall sell it, and pay the money into the treasury,	230
No plat to be delivered, but to the owner, within a year, unless a <i>carcat</i> be entered,	69	Their commissions thereon,	230
SWEARINGHAM, (VAN.)		Slaves, &c. purchased by them, how to be supported,	231
A sum of money to be paid him,	279	Agents to give bond and surety,	230
SYDNOR, (WILLIAM.)		Amenable to and removable by the executive,	230
Executors of, to be paid a balance due their testator for services as an inspector of tobacco,	420	Their duty when property under execution is claimed by any other than the debtor,	230
		All executions for arrearages to be sent to them,	231
<b>T</b>		Their duty on receiving them,	231
<b>TAR.</b>		Their commissions on arrears paid into the treasury,	231
Inspectors of, how appointed and qualified,	173	May appoint assistants,	231
Their duty,	173	Extra commissions may be allowed them by the executive, for money recovered from debtors out of the state,	231
Fees of,	173	To what delinquents their powers extend,	231
Contents and quality of barrels of tar, &c.	174	Agents may receive arrears where commissioners have been appointed,	231
Penalties for exposing to sale barrels of less weight or guage,	174	Time allowed to sheriffs appointed prior to the year 1792, to collect their arrearages of taxes, extended,	305
How recoverable,	174	No lands to be deemed forfeited for non-payment of taxes, unless the returns and notices required by law have been made and given,	305
Judgment may be appealed from,	174	Rights of persons, other than those of the commonwealth, saved,	306
Oath of seller or exporter of tar, &c.	175	Title to the purchasers of lands heretofore sold for arrears of taxes, in case of the death of the officer who sold them, how made,	306
Cooper's duty in setting up barrels for tar, &c.,	175	Certificate taxes, inhabitants of certain counties may discharge them in specie, at a certain rate,	401, 405
Fines how recoverable,	175		
<b>TAVERN RATES.</b>		<b>TAYLOR, (JOHN.)</b>	
To be fixed by county courts,	143	Warrant to issue to, as executor of Thomas Williamson,	332
Tables thereof to be set up by ordinary keepers in some public room,	143	<b>TEMPLEMAN, (SAMUEL.)</b>	
Penalty for taking more than the legal rates,	143	Auditor to issue a warrant to,	409
<b>TAVERNS.</b>		<b>TENANT</b>	
See <i>Ordinaries.</i>		Paying the taxes may deduct amount from the rent, unless he is by contract bound to pay them,	61
<b>TAXES.</b>		<b>TERMS OF COURTS</b>	
See <i>Revenue—Sheriff.</i>		Of Gloucester, Grayson and Patrick counties,	253
When executive may appoint collectors of public taxes,	44		
Sheriff's remedy against his deputy failing to account for public taxes received by him,	43		
Clerks of courts when to account for and pay taxes collected by them,	61		
Taxes on lands, slaves and other property,	221, 287, 358		
On process and appeals,	225, 288, 358		
On certificates under county court seals,	225, 288, 358		



<b>THOMAS, (JOHN.)</b>	
Auditor to issue a warrant to,	422
<b>TIPPLING HOUSES.</b>	
Penalty for opening a tavern or retailing liquors without license,	143
Duty of justices in enforcing laws against,	144
<b>TITHABLES.</b>	
See <i>County Levy.</i>	
Who shall be deemed,	184
Who exempted,	184
List of tithables to be taken by commissioners of the taxes,	184
Penalty on commissioner for not taking the list of tithables,	186
List of tithables to be given by masters of families, their agents or overseers,	185
Penalty for neglect,	185
Copies thereof to be set up in the court-houses by the clerks,	184
Penalty for neglect,	186
<b>TOBACCO.</b>	
Felony to steal tobacco on or near the highway,	194
Tobacco brought from upper to lower warehouses for storage, when to be sold by inspectors,	223
Tobacco burnt in the public warehouses, when to be paid for by the public,	223
Inspectors to receive the full amount of their salaries, when the tobacco inspected, if shipped, would have produced a sufficiency,	223
Inspections of, established on Hopson's land, in Halifax county,	253
Warehouses, when they shall be built,	259
When inspection shall commence,	258
Inspectors' salaries,	258
Deficiency of, not to be paid by the public,	259
Manifest to be delivered with each load of tobacco,	258
Where tobacco to be delivered,	258
Warehouse rent to be paid therefor,	258
Duty on, how to be collected,	259
Inspection of, established on the lands of William Cannon, in the county of Buckingham,	259
When inspection shall commence,	260
Salaries of inspectors,	259
Deficiency in, not to be paid by the public,	260
Manifest to be delivered with each load of tobacco,	259
When tobacco to be delivered,	259
Warehouse rent to be paid therefor,	260
Duty on, how to be collected,	260
Inspection of, established on the lands of John Barnett, in the county of Pittsylvania, on Dan river,	260
When inspection shall commence,	261
Salaries of inspectors,	260
Deficiency of, not to be paid by the public,	261
Manifest to be delivered with each load of tobacco,	260
Where to be delivered,	260
Warehouse rent to be paid therefor,	261
Duty on, how to be collected,	261
Inspection of, established on the lands of William Dix, in the county of Pittsylvania,	261
When inspection shall commence,	262
Salaries of inspectors,	261
Deficiency of, not to be paid by the public,	262
Manifest to be delivered with each load of tobacco,	261
Warehouse rent to be paid therefor,	262
Duty on, how collected,	262
Inspectors' salaries at Amherst warehouse increased,	262
At Horseley's warehouse, in the county of Buckingham,	262
Salaries of inspectors at Shockoe warehouse, and out of what fund to be paid,	263
Salaries of inspectors at Rocky Ridge warehouse, balance due to be paid out of any money in the treasury,	263
Two of the tobacco warehouses in Alexandria revested in William Hepburn and John Dundas until wanted for public use,	263
Inspection in Alexandria discontinued, and lands revested in former owners,	404
Dumfries warehouse, when the inspection at, shall be discontinued,	264
Inspectors' salaries to be paid them,	264
Tobacco therein to be delivered to the inspectors at Quantico warehouse,	264
Falmouth warehouse, when the inspection at, shall be discontinued,	264
Rocky Ridge warehouse, commissioners appointed to ascertain claims for the tobacco burnt therein,	265
When and where they shall meet, and their oath,	265
Inspectors at other warehouses, who received tobacco from Rocky Ridge, accountable therefor,	265
Warrants to be issued to owners of tobacco burnt at,	335
To the commissioners for their expenses,	335
Payable out of the duties on tobacco exported,	335
Inspectors' salaries for 1793 to be made good out of the surplus of 1794,	297
An additional warehouse at Amherst inspection to be erected, commissioners appointed,	359
<b>TOWNS, (Unincorporated.)</b>	
Trustees of, may prohibit horse racing in the streets, and impose a penalty thereon,	412
<b>TREASON.</b>	
What shall be deemed proof of, and how punished,	187
By whom, and how persons convicted of, may be pardoned,	292
<b>TREASURER.</b>	
See <i>Auditor.</i>	
His continuance in office,	63
His clerks,	63
Vacancy during recess of assembly, how supplied,	63
How to proceed against his predecessor for balance due from him to the public,	63
How he shall keep his accounts,	63
Penalty for misapplying public money,	63
Not to pay or receive money but on warrant or certificate from the auditor,	63





Exception,	63	VENIREMEN.	
Treasurer's office to be under the control of the executive,	64	See <i>Petit Juries</i> .	
Treasurer to represent the commonwealth in the Potomac, James river and Dis-mal swamp canal companies,	64	Penalty on, failing to attend,	20
TREATY OF PEACE		Allowance to,	20
Between Great Britain and the United States, resolution respecting,	285	Attendance of, in the district courts, to be certified to the auditor,	23
TRESPASS.		VERDICTS.	
In actions of, when no more costs than damages recoverable,	30	When shall stand, though one of several counts is faulty, and damages general,	33
Where defendant shall recover his costs,	30	VESSELS.	
Negligent or involuntary, defendant may plead a disclaimer and tender of amends,	30	See <i>Boats</i> .	
TRUSTS.		VICTUALS.	
See <i>Conveyances</i> .		Not to be sold by executors or administrators, but to remain for the use of the family of decedent,	96
TUCKER, (WILLIAM.)		W	
To be placed on the pension list, and immediate relief granted,	420	WADE, (JAMES.)	
TUPPER, (ANSYLUM.)		Duplicate of certain certificates to be issued to,	333
Certain sum of money to be paid to,	337	WALKER, (THOMAS.)	
TURPENTINE.		Farther time allowed, to complete collections of certain taxes,	419
See <i>Tur</i> .		WARD, (WILLIAM.)	
TYGER'S VALLEY RIVER.		Auditor to issue a warrant for payment of money to,	417
Commissioners appointed to receive subscriptions to remove obstructions therein,	411	WARDS.	
Penalty for neglecting to pay subscriptions,	411	See <i>Guardians</i> .	
Commissioners' authority to contract with any person for removing obstructions,	411	WAREHOUSES.	
U		See <i>Tobacco</i> .	
UNBEQUEATHED PERSONAL ESTATE.		WARRANTS.	
How to be distributed,	93	See <i>Forgery</i> .	
UNIVERSITY ( <i>At the Federal City</i> .)		WARREN.	
Contemplated erection of, approved,	435	Town of, established, in the county of Albemarle, on the lands of Wilson Cary Nicholas,	425
UNLAWFUL ASSEMBLIES		Trustees appointed,	425
Of slaves, free negroes, &c., how suppressed,	124	Their powers,	425
Punishment of white persons and free negroes, &c. at such assemblies,	124	Vacancies how supplied,	425
V		Privileges of purchasers of lots,	425
VAGRANTS.		WASHINGTON COUNTY.	
Who shall be deemed,	121	Collector of taxes thereof, due for certain years, to collect and account therefor within a certain period,	206
Keepers of A. B. C. or E. O. tables, or furo banks, &c., vagrants,	109	When he may distrain therefor,	306
Vagrants, how treated, when found within any county,	120	WASTE.	
Vagrants within any corporation,	121	Tenant for life or years committing, forfeitures thereby incurred,	193
Work houses for their reformation may be provided by county and corporation courts,	120	Action of, may be brought by one tenant in common against the other,	193
VENDITIONI EXPONAS.		By heirs,	193
Writ of, when shall be issued, and its form,	214	By wards against their guardians,	191
VIENNA.		Process in actions of,	194
Town of, established in the county of Harrison,	423	Tenant not to commit waste pending action,	194
Trustees appointed,	423	WEIGHTS AND MEASURES.	
Powers of,	423	Act of 1794 to remain in force until congress makes some provision on the subject of,	194
Vacancies, how supplied,	429	Penalties, how appropriated,	191
Lots, when and how to be sold,	423	WEST LIBERTY.	
Rights of purchasers,	429	Certain lots in the town of, revested in the former proprietors,	271
Penalty on purchasers failing to build,	429	WHEELING.	
		Town of, established, on the land of Ebenezer Zane, in the county of Ohio,	424
		Trustees appointed,	424
		Powers of,	424



- Vacancies, how supplied, 425  
Rights of purchasers of lots, 431
- WIDOW.
- See *Dower--Intestates' Estates.*  
Not satisfied with the provision made for her by her husband's will, may renounce and demand her dower of the slaves, and her proportion of the personalty, 92  
May remain in the mansion house and plantation, until dower be assigned, 101  
May bequeath the crops of their dower lands, 103  
Not barred of right of entry into her land, lost by her husband's default, 151
- WIFE.
- See *Dower.*  
When may defend a suit brought for her lands, 151, 152  
Husband's conveyance of his wife's lands, not to prejudice her, or her heirs, 152
- WILLIAMSBURG.
- The corporation of, empowered to sell part of the old capitol, 273  
Purchase money, how to be applied, 273  
Secretary's office to be rented out, rents how applied, 273
- WILLIAM AND MARY COLLEGE.
- See *College of William and Mary.*
- WILLS.
- See *Administration.*  
Who may dispose of their lands and tenements, by will, 83  
What estate deviseable, 88  
Not to affect widow's rights, 89  
Tenants of lands held for the life of another, may devise their interest, 97  
Bequests to witnesses, when and to what extent void, 89  
Devises, must be in writing, 89  
How must be attested, 89  
How may be revoked, 89  
Soldiers and seamen, may dispose of their chattels, as heretofore, 89  
Will made when testator had no children, not to affect those born afterwards, 89  
Posthumous and pretermitted children entitled to the same portions, as in cases of intestacy, 89  
Who may dispose of chattels by will, 89  
How such wills may be revoked, 89  
*Nuncupative* wills, when effectual and how established, 89  
When they shall not be of force, 89  
When may be proved, 91  
*Probate*, courts of, 90  
Rules as to residence, property, &c. of decedent, 90  
Any person having another's will in his possession, may be compelled to produce it, 91  
Probate to be received, when the will is exhibited, 90  
Validity of, may be contested by any person interested, within seven years thereafter, 90  
How wills may be proved by witnesses residing out of the commonwealth, 90, 198  
Original wills to be recorded, and remain in the clerk's office, 93
- Authenticated copies of wills proved in any of the United States, or in countries beyond their limits, may be proved and recorded, in the courts of this commonwealth, 91  
When in general, district or county court, 91  
Their validity may be contested, as the originals might have been, 91  
Executors named therein entitled to probate, 91  
If they refuse or none be named in the will, administration to be granted, with the will annexed, as if original will had been proved in court, 91  
Where executors named in the will refuse the executorship, administration with the will annexed, shall be granted, 91  
Powers of executors before probate, 92  
Executors and administrators, how qualified, 91  
Oath of, 91  
Bond, 91  
When executors not obliged to give surety, 92  
In what cases the court shall appoint a person to collect and preserve decedent's estate, 92  
How qualified, and his duties, 92  
Wills may be proved after administration granted, 93  
Certificate of probate, 94, 95  
When clerks to make out in due form, 95  
Lists of probates in the county, corporation, district and general court, to be recorded in the general court, 95  
Lands devised to be sold by whom conveyance to be made, 69  
Sales and conveyances of lands devised to be sold, heretofore made by sheriffs, confirmed, 99
- WINCHESTER.
- District court of, when to be holden, 378
- WITNESSES.
- Who shall not be admitted as witnesses, 196  
For prisoners, how to be summoned and paid, 22  
Attendance of, in the district courts, to be certified to the auditor, 23  
How to be summoned, 197  
Failing to attend, may be fined and sued by party for damages, 196  
Refusing to testify, how to be dealt with, 197  
Privileges of, 46, 197  
Allowance for attending county courts, referees, surveyors, &c., 197  
For attending in superior courts, 197  
For attending in several suits at same time, 197  
Charge allowed for only three witnesses to one fact, 198  
Commissions for examination of witnesses, how obtained, when witness is about to leave the country, or is unable to attend, 198  
When witness resides beyond sea, or in a foreign country, 198  
When a claim or defence depends on a single witness, 198  
Where a witness to a will resides out of the state, 198





Notice of executing commission, how to be given, where one of the parties lives out of the state, and has no agent therein,	199	Trustees to take an oath,	427
		Powers of,	427
WOLVES.		WORK HOUSE.	
Reward for killing in the counties of Patrick, Henry, Franklin, Bedford and Campbell,	253	County and corporation courts may provide, for the reformation of vagrants,	120
Duplicate warrants to be issued to the clerk of Washington county for additional allowance on wolves' heads,	270	WRIGHT, (JOHN)	
		To be placed on pension list, and immediate relief afforded,	279
WOODSTOCK.		WRITS OF RIGHT.	
Inhabitants of, to elect trustees annually,	427	Actual possession not necessary to maintain a writ of right,	33
Sheriff of the county to conduct the election,	427	WYTHE.	
		That part of the act establishing a town in the county of, which prohibits swine going at large therein, repealed,	273











